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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92025859
Party	Plaintiff Empresa Cubana Del Tabaco d.b.a Cubatabaco
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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**Oral Cross-Examination, Re-Direct and Re-Cross Examination and Second Re-Direct of
Alan Willner, dated December 13, 2019**

* At Respondent's request and solely in order to facilitate the orderly presentation of testimony in this proceeding, Petitioner has agreed to file this transcript even though Respondent noticed this oral examination.

IN THE UNITED STATES DISTRICT PATENT AND TRADEMARK
OFFICE BEFORE THE TRADEMARK AND APPEAL BOARD

EMPRESA CUBANA DEL TABACO, d/b/a
CUBATABACO,

Petitioner,

vs.

GENERAL CIGAR CO., INC., AND
CULBRO CORP.,

Respondent.

_____/

TESTIMONY OF
ALAN WILLNER
FOR THE PATENT AND TRADEMARK OFFICE

Friday, December 13, 2019

9:43 a.m. - 2:39 p.m.

BOIES SCHILLER FLEXNER
401 East Las Olas Boulevard
Fort Lauderdale, Florida

Stenographically Reported By:
Kimberly Fontalvo, RPR, CLR
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****Exhibits 40 through 44 to be supplemented****

1 THE COURT REPORTER: Please raise your
2 right hand.

3 Do you swear that the testimony you are
4 about to give will be the truth, the whole
5 truth, and nothing but the truth?

6 THE WITNESS: Yes.

7 DIRECT EXAMINATION

8 BY MR. DEUTSCH:

9 Q. Mr. Willner, my name is Andrew Deutsch. I
10 am an attorney for General Cigar Company in a
11 proceeding which has been brought by Empresa Cubana
12 Del Tabaco, which is generally known as Cubatabaco
13 or Cubatabaco (pronounced differently). I'll use
14 one of those two pronunciations if it comes up.

15 Today is a trial deposition in a Trademark
16 Trial and Appeals Board proceeding, so it is
17 equivalent to going into court at trial and
18 testifying. I want to make sure you understand
19 that.

20 This testimony will be presented by one or
21 both parties to the board that makes a decision in
22 this proceeding, so it's important to get a clear
23 record.

24 If you have any difficulty in
25 understanding any of my questions, please let me

1 know before you answer. I will try to rephrase
2 them.

3 Obviously, if I show you any document,
4 please read it or at least read the points that I'm
5 asking you to read.

6 You know, you are, as I understand it, a
7 nonparty witness today and not represented by
8 counsel, so there may be discussion or colloquy
9 between myself and Mr. Frank, that is for the eyes
10 of the board and not for you in particular, and
11 there will be, eventually, a resolution of any
12 objections that either side raises to questions or
13 anything else that goes on in the trial deposition.
14 So that's not really an issue for you.

15 And with that, I'll ask if you have any
16 questions about the procedure before we start.

17 A. I don't think so.

18 Q. Okay. So did you do anything to prepare
19 for your trial deposition today?

20 A. I read the declaration.

21 Q. And by "declaration," you mean the
22 declaration that you provided in this case.

23 A. I read the declaration that was prepared
24 by Lindsey's law firm.

25 Q. And Lindsey is Mr. Frank, who is sitting

1 here.

2 A. Correct.

3 Q. And he is the attorney for Cubatabaco.

4 A. Correct.

5 MR. DEUTSCH: All right. Let's mark -- I
6 think it's Respondent's 38.

7 (Thereupon, marked as Respondent's
8 Exhibit 38.)

9 BY MR. DEUTSCH:

10 Q. Mr. Willner, we've put in front of you
11 what's been marked as Respondent's Number 38.

12 Can you tell me what this is?

13 A. This is the declaration that I just
14 referred to.

15 Q. Okay. And can you then take a look at the
16 last page of Exhibit 38. That's page 19.

17 Is that your signature on page 19?

18 A. Yes.

19 Q. And did you sign this on October 4, 2018,
20 in Parkland, Florida?

21 A. I don't recall --

22 Q. Okay.

23 A. -- but -- yeah.

24 Q. Do you have any reason to believe that's
25 inaccurate as to the date?

1 A. No.

2 Q. And that's something over a year ago,
3 correct --

4 A. Correct.

5 Q. -- when you signed this?

6 A. Correct.

7 Q. Besides your declaration, did you review
8 any other documents before coming today?

9 A. No.

10 Q. Okay. Now, do you understand that this
11 declaration is being submitted by Cubatabaco to the
12 Trademark Trial and Appeal Board as your direct
13 testimony in this trial proceeding? Instead of
14 asking you questions, Mr. Frank and we have agreed
15 that this testimony can go in by declaration.

16 A. I do now.

17 Q. Okay. And when did you last read your
18 declaration?

19 A. Last night.

20 Q. Is it your -- withdrawn.

21 Do you maintain that everything that is
22 stated as a fact in this declaration is true as of
23 today?

24 A. There were a couple of small things that I
25 noticed last night that -- here, I'll pull them up.

1 On page 11, Number 37, it says:
2 "Moosylvania provided General Cigar quarterly
3 reports about consumer perspectives on General Cigar
4 brands, which I personally received and sometimes
5 reviewed."

6 Q. Yes.

7 A. I reviewed all the quarterly reports.

8 Q. Okay. Let me just stop you there.

9 Why, when you executed your declaration
10 back in October 2018, did you say you sometimes
11 reviewed them?

12 A. I just overlooked the word "sometimes."

13 Q. Okay.

14 A. We got a lot of reports. I always
15 reviewed the quarterly reports.

16 Q. Okay. Anything else?

17 A. And then on page 17, my work history --

18 Q. Yes, sir.

19 A. -- 1980 -- my first job, 1982 to 1987 --

20 Q. Yes.

21 A. -- with Hershey Foods.

22 Q. Okay. 1982.

23 So that's paragraph 63, correct?

24 A. Correct.

25 Q. Okay. Anything else?

1 A. No.

2 Q. So outside of those two changes,
3 everything that is in your declaration, to your
4 understanding, is true as of today?

5 A. Correct.

6 Q. And is every opinion that you expressed in
7 the declaration still your opinion as of today?

8 A. Yes.

9 Q. Okay. Now, is Mr. Frank representing you
10 today as your attorney?

11 A. No.

12 Q. Okay. Is his law firm representing you --

13 A. No.

14 Q. -- today?

15 I'll just ask you this: Even though the
16 answer to questions may be obvious, let me finish
17 them before you answer --

18 A. Sure.

19 Q. -- just so we can get the court
20 reporter --

21 A. Sure.

22 Q. -- to get the right answer and clear
23 answer down.

24 Have you ever retained Mr. Frank to act as
25 your attorney for any purpose?

1 A. No.

2 Q. Have you ever retained his law firm to act
3 as your attorney for any purpose?

4 A. No.

5 Q. Have you ever, to your knowledge, retained
6 any law firm that also represents Cubatabaco to act
7 as your attorney for any purpose?

8 A. No.

9 Q. Have you ever retained a personal lawyer
10 in connection with the litigation between
11 General Cigar and Cubatabaco?

12 A. No.

13 Q. Okay. Now, have you spoken with anyone
14 regarding your testimony in this proceeding before
15 coming here today?

16 A. I've spoken to family.

17 Q. To who?

18 A. My family.

19 Q. Oh, to your family.

20 A. Yeah.

21 Q. Did you speak to anyone at Mr. Frank --
22 did you speak to Mr. Frank?

23 A. Yes.

24 Q. And when did you speak to him?

25 A. I spoke to Mr. Frank through some previous

1 emails over the last month or so to coordinate this
2 meeting -- probably the last couple of months,
3 actually -- and then we met yesterday.

4 Q. Okay. So were those prior communications
5 about the date of your deposition?

6 A. Yes, date and time.

7 Q. Okay. Well, tell me what happened between
8 you and Mr. Frank yesterday.

9 A. We simply reviewed the declaration.

10 Q. Did you look at any other documents?

11 A. No.

12 Q. Besides your family, have you discussed
13 the litigation between Cubatabaco and General Cigar
14 with anyone else -- and Mr. Frank -- have you
15 discussed it with anyone else since you left
16 General Cigar?

17 A. No.

18 Q. Okay. Have you received any compensation
19 of any nature connected to your providing the
20 declaration that's been marked as Respondent's 38?

21 A. For my loss of time. I'm supposed to be
22 in the Bahamas right now.

23 Q. Okay.

24 A. I was paid compensation.

25 Q. What compensation?

1 A. \$1,000.

2 Q. How was that calculated?

3 A. That was calculated conservatively on an
4 hourly rate of my salary and bonus.

5 Q. So you asked for a thousand dollars?

6 A. Yes.

7 Q. And Mr. Frank's firm is paying you?

8 A. Yes.

9 Q. Have you received it?

10 A. Yes.

11 Q. Okay. Now, you recall giving a
12 deposition -- a discovery deposition in this case on
13 October 25, 2017?

14 A. Yes.

15 Q. And the questioner was my colleague,
16 Airina Rodrigues?

17 A. Yes, yes.

18 Q. Since that time and excluding your meeting
19 with Mr. Frank yesterday, have you had
20 communications with any lawyer representing
21 Cubatabaco?

22 A. No.

23 Q. So between October -- did you have any
24 communications regarding your declaration before you
25 signed it?

1 A. No.

2 Q. So you -- let me see if I understand it.

3 Did you prepare your declaration?

4 A. No.

5 Q. Who prepared it?

6 A. Mr. Frank's law firm.

7 Q. Did you have any communications with
8 Mr. Frank's law firm prior to the time that they
9 prepared your declaration?

10 A. No, sir.

11 Q. How did you know that there was going to
12 be a declaration prepared for you?

13 A. I didn't.

14 Q. How did it come that you learned that a
15 declaration had been prepared for you?

16 A. Through email.

17 Q. And when was that email?

18 A. I don't recall the exact date.

19 Q. Okay. The date on this declaration being
20 October 4, 2018, do you know how long prior to that
21 date you were first contacted by Mr. Frank's law
22 firm about giving declaration?

23 A. I don't remember.

24 Q. Do you remember if it was months?

25 A. I honestly don't remember.

1 Q. You have no idea whatsoever of the time?

2 A. None.

3 Q. Okay. How were you contacted?

4 A. I believe it was email.

5 Q. Okay. Did you solicit this or was it sent
6 to you without your knowing it was coming?

7 A. I did not solicit it.

8 Q. Okay. And do you remember who at the --
9 Mr. Frank's law firm sent that to you?

10 A. I don't know for sure. I suspect it was
11 Mr. Frank, but I don't know for sure.

12 Q. And what do you recall about the -- what
13 was said in that communication from Mr. Frank or his
14 law firm?

15 A. I don't remember exactly.

16 Q. What -- do you remember -- what is the
17 extent of your recollection?

18 A. That I received the declaration. I was
19 told to review it --

20 Q. Uh-huh.

21 A. -- and if there were any inconsistencies
22 or things that I did not believe were accurate, to
23 let him know.

24 Q. So the first communication you got was, in
25 fact, a draft of a declaration from Mr. Frank or his

1 firm?

2 A. I don't recall if it was -- I assume it
3 was a draft, since I was being asked for feedback on
4 any changes.

5 Q. Do you recall whether you were asked
6 before you ever received a draft whether you would
7 consent to providing a declaration in this
8 proceeding?

9 A. I don't recall.

10 Q. So as far as your recollection goes, your
11 first communication may have been that they actually
12 sent you a draft of a declaration, correct?

13 A. That's my recollection, although it
14 doesn't seem reasonable. It would seem that I would
15 have been given notice that a declaration was on its
16 way. I just don't recall that.

17 Q. Wouldn't it have been reasonable for you
18 to be asked whether you were willing to give a
19 declaration?

20 A. I think it would be, and I don't recall if
21 I was asked that.

22 Q. Can you recall any occasion on which you
23 told General Cigar before -- I'm sorry, where you
24 told Mr. Frank or his law firm before you received
25 the draft of a declaration you would be willing to

1 provide a declaration to support Cubatabaco's case?

2 A. I don't recall doing that.

3 Q. Okay. So to the best of your
4 recollection, it just came to you out of the blue.

5 A. My recollection is I got an email with a
6 declaration attached, and I was asked to read it.

7 Q. And is your recollection, as well, that
8 you didn't anticipate that you were going to get
9 that email until you received it?

10 A. Like I said, I don't recall getting
11 notice, although it seems a little bit odd that I
12 wouldn't have. I do not recall.

13 Q. Okay. Did you respond that you were
14 willing to provide a declaration at any point or did
15 you just start to work on the draft that was given
16 you?

17 A. I don't recall being asked if I wanted to
18 submit a declaration.

19 Q. So there were emails exchanged between you
20 and Mr. Frank or his firm regarding this declaration
21 before you signed it?

22 A. That's correct.

23 Q. Do you remember how many emails?

24 A. I received a declaration. I'm sure that I
25 responded upon receipt. I don't recall exactly.

1 More than likely, I responded on receipt. And there
2 may have been one other communication.

3 Q. Do you recall reviewing and correcting the
4 draft that was tendered to you by Mr. Frank's law
5 firm?

6 A. Vaguely. I don't recall -- vaguely, I
7 remember maybe making a change or two. And that
8 would have been the second communication.

9 Q. What would the first communication have
10 been?

11 A. Maybe just acknowledging receipt.

12 Q. Okay. So in order of sequence, you
13 received -- is it correct that you received a draft
14 declaration from Mr. Frank's firm.

15 Your first response was to say: "I've
16 received your declaration"; is that correct?

17 A. (Nodding head).

18 Q. Is that right? You have to say "yes" or
19 "no."

20 A. Sorry. That's normally what I would do.
21 I don't recall specifically, but that's what I would
22 propose I probably did.

23 Q. That would be normal practice?

24 A. That would be normal practice.

25 Q. Okay. And then is it correct that your

1 second communication with Mr. Frank was to send him
2 changes you wanted to see in the draft of your
3 declaration?

4 A. That seems logical.

5 Q. Is that what happened?

6 A. I don't recall exactly.

7 Q. Okay. And was this all taking place in
8 2018?

9 A. Given that this declaration is dated
10 October of '18, this took place in 2018.

11 Q. Okay. And can you remember approximately
12 how many months prior to the date of your signature
13 here, October 4, 2018?

14 A. I don't.

15 Q. Do you remember approximately how long the
16 whole process from the first email from Mr. Frank's
17 firm to the day you signed your declaration took?
18 Was it weeks? Months? Anything -- can you give me
19 any idea at all?

20 A. I can certainly look at my email and give
21 you a precise idea.

22 Q. Okay. But as you sit here today, can you
23 give me an idea?

24 A. I can't.

25 Q. Okay. And is it your testimony that you

1 made one set of corrections, and only one set of
2 corrections, to the draft you were given?

3 A. To the best of my recollection, that's
4 what I recall doing. And, again, I could check
5 emails and know precisely how many.

6 Q. Okay. But, again, as you sit here today
7 without the emails, that's all you remember.

8 A. Correct.

9 Q. Okay. Do you recall the changes that you
10 made to the draft that initially was given to you by
11 Mr. Frank?

12 A. I don't.

13 Q. Okay. Do you recall whether you made a
14 lot of changes or only a few changes?

15 A. I suspect I only made a few changes.

16 Q. In the process of making -- withdrawn.

17 In the process of reviewing the draft and
18 deciding whether to make changes, did you consult
19 any documents, or did you simply work from your own
20 memory?

21 A. What's in my document is true and I know
22 it, so I didn't have to refer back to any other
23 documents.

24 And the context or content of the
25 document, of the declaration, didn't really suggest

1 that I needed to go look at documents.

2 Q. Okay. So the answer is: You didn't look
3 at any other documents --

4 A. Correct.

5 Q. -- is that correct?

6 A. Correct.

7 Q. Thank you.

8 And once you provided -- well, withdraw
9 that.

10 Once you signed the declaration, did you
11 have any communications with Mr. Frank about the
12 declaration up until yesterday when you met with
13 him?

14 A. I don't recall, but -- I don't -- I just
15 don't recall having a conversation, no, after I
16 signed it.

17 Q. Okay. And you don't -- is it correct that
18 you don't recall having any communication with any
19 lawyer representing Cubatabaco from the date you
20 signed your declaration until yesterday when you met
21 with Mr. Frank, other than to set a date for your --

22 A. That's correct.

23 Q. I'm sorry. I still have to finish the
24 question.

25 A. Oh, I thought you were.

1 Q. No.

2 Other than when you set a date for your
3 examination.

4 Let me put it to you again.

5 Is it correct that outside of -- withdraw
6 that, too.

7 Is it correct that between the date you
8 signed and provided your declaration to Mr. Frank
9 and yesterday, you didn't have any other
10 communications with lawyers for Cubatabaco other
11 than to set the date for your deposition?

12 A. Correct.

13 Q. Okay.

14 MR. DEUTSCH: Okay. I'm going to mark as
15 39, Respondent's 39, this document.

16 (Thereupon, marked as Respondent's
17 Exhibit 39.)

18 BY MR. DEUTSCH:

19 Q. Okay. You have been given Respondent's
20 39. Please review it and when you have -- when you
21 have finished, let me know that you have finished.

22 A. So it's my LinkedIn profile.

23 Q. This is your LinkedIn profile?

24 A. Correct.

25 Q. Did you write this?

1 A. Yes.

2 Q. Okay. And we printed this out yesterday,
3 I think, or the day before.

4 Is that, to your knowledge, your most
5 current version of your LinkedIn profile?

6 A. I believe so.

7 Q. Okay. Now, in your declaration, starting
8 on paragraph 53 and going through paragraph 63, you
9 list all the jobs that you held from 19- -- I gather
10 it's now the end of 1982 until you became vice
11 president of marketing for General Cigar; is that
12 correct?

13 A. Correct.

14 Q. But you don't list any jobs that you have
15 held since you left General Cigar; is that also
16 correct?

17 A. No.

18 Q. Is that wrong or is that -- I'm asking
19 about your declaration at the moment.

20 A. Correct. The declaration, correct.

21 Q. That's all I wanted to know.

22 Now, this identifies your job after --
23 your only job after leaving General Cigar as chief
24 executive officer of Pirate Republican -- Pirate
25 Republic Brewing Company, correct?

1 A. Correct.

2 MR. FRANK: Objection. You're referring
3 to Exhibit --

4 MR. DEUTSCH: Yeah. Let me rephrase it.

5 BY MR. DEUTSCH:

6 Q. Exhibit 39, your LinkedIn profile,
7 identifies your only job after leaving General Cigar
8 as being chief executive officer of Pirate Republic
9 Brewing Company; is that right?

10 A. Yes.

11 Q. Okay. And is that your only employment
12 that you have had since you left General Cigar?

13 A. I did a consulting stint with a company
14 out of California for a month.

15 Q. Okay. And what was the company?

16 A. It was called Copalli Rum.

17 Q. Can you spell that, please.

18 A. C-O-P-A-L-L-I.

19 Q. And would it be accurate to say they were
20 in the rum business?

21 A. Yes.

22 Q. Okay. So you haven't done -- is it
23 correct to say you haven't done any work for any
24 cigar company since you left General Cigar?

25 A. I have not done any work for a cigar

1 company since I left General Cigar.

2 Q. Okay. And is it correct to say you
3 haven't consulted for any cigar business since you
4 left General Cigar?

5 A. Correct.

6 Q. Okay. And what is the current business of
7 Pirate Republic Brewing Company?

8 A. Pirate Republic is a craft brewer located
9 in the Bahamas.

10 Q. Okay. And is it accurate to say they're
11 not in the cigar business?

12 A. It is.

13 Q. And they're not in any tobacco business?

14 A. Correct.

15 Q. Okay. Would it be accurate to say that
16 your current job does not call for you to remain up
17 to date as to developments in the cigar business?

18 A. That's correct.

19 Q. And that you haven't had any employment
20 need to remain current as to cigar developments
21 since you left General Cigar, correct?

22 A. Correct.

23 Q. And you ceased working there in
24 November 2016; is that correct?

25 A. Correct.

1 Q. Okay. All right. I'm going to ask you
2 some questions about your prior employment.

3 And we'll start with paragraph 63 of your
4 declaration, which is Exhibit 37.

5 Now -- are you with me?

6 A. Yes.

7 Q. Okay. So this talks about your work at
8 Hershey Foods Company, and I gather from earlier you
9 are correcting what appears in the declaration.

10 You worked from -- for Hershey from the
11 end of 1982 through 1987; is that correct?

12 A. Correct.

13 Q. And was Hershey in the cigar business?

14 A. No.

15 Q. Was Hershey involved in any tobacco
16 businesses then?

17 A. No.

18 Q. Then in 62 -- paragraph 62 of your
19 declaration, you say you worked for PepsiCo from
20 1987 to 1988; is that correct?

21 A. Yes.

22 Q. And was PepsiCo in the cigar business?

23 A. No.

24 Q. Was PepsiCo in any tobacco business at all
25 at that time?

1 A. No.

2 Q. Okay. And paragraph 61 says that you
3 worked in -- is that Brach's?

4 A. Brach's.

5 Q. Brach's Candy Company from 1988 to 1992.

6 And was Brach's in the cigar business at
7 that time?

8 A. No.

9 Q. Were they in the tobacco business?

10 A. No.

11 Q. Okay. And would it be correct that in
12 your LinkedIn pages, you do not indicate your work
13 at Hershey's, PepsiCo, or Brach's?

14 A. Yes.

15 Q. Okay. By the way, you also don't give the
16 date when you received your bachelor in science in
17 marketing from Arizona State in your LinkedIn,
18 correct?

19 A. Correct.

20 Q. So back to the declaration, paragraph 60.
21 Paragraph 60 says that you worked for
22 Nabisco between 1992 and 1996, correct?

23 A. Correct.

24 Q. And at that time, was Nabisco in the cigar
25 business?

1 A. No.

2 Q. Were they in the tobacco business?

3 A. No.

4 Well, I worked for Nabisco Biscuit
5 Company. They were not in the cigar business.

6 RJR Nabisco, the parent company back then,
7 was in the tobacco business.

8 Q. But you had no involvement in the tobacco
9 business.

10 A. Correct.

11 Q. And, now, in paragraph 59, it says that
12 you worked for Coors Brewing from 1996 to 2000; is
13 that --

14 A. Correct.

15 Q. I'm sorry?

16 A. Correct.

17 Q. You have to let me finish.

18 And at that point, was Coors in the cigar
19 business?

20 A. No.

21 Q. Were they in the tobacco business?

22 A. No.

23 Q. Okay. Paragraph 58 says that you held a
24 position of vice president of client service at
25 Spectra Marketing for a little less than a year in

1 2000; is that correct?

2 A. Correct.

3 Q. And what was the business of Spectra
4 Marketing?

5 A. They were a psychographic demographic
6 consulting firm who became part of ACNielsen
7 Company.

8 Q. Okay. Did you do any consulting while you
9 were with Spectrum for any cigar company? Spectra.
10 Excuse me.

11 A. No.

12 Q. Did you do any consulting for any tobacco
13 company?

14 A. No.

15 Q. And how is it that you -- what were the
16 circumstances under which you left Spectra?

17 A. To join Diageo.

18 Q. Is it the case you were offered a job at
19 Diageo?

20 A. Correct. It was a client that offered me
21 a job.

22 Q. Client of Spectra?

23 A. Yes.

24 Q. So paragraph 57 says you worked at Diageo
25 from approximately 2000 to 2001, correct?

1 A. Correct.

2 Q. And how much time exactly did you work
3 there? Was it two years? A year and a half?

4 A. I worked there about a year and a half.

5 Q. Year and a half.

6 And did Diageo -- at that point, were they
7 in the cigar business?

8 A. No.

9 Q. Were they in the tobacco business?

10 A. No.

11 Q. Okay. And how did you come to cease being
12 employed by Diageo?

13 A. We merged with Seagram's, there were all
14 kinds of changes occurring, and I had another
15 opportunity that I felt was better for me.

16 Q. Were you offered the opportunity to
17 continue with the merged Diageo/Seagram's
18 organization?

19 A. Yes.

20 Q. So this says in paragraph 56 that your
21 next position was vice president of marketing for
22 Pabst Brewing Company from approximately 2001 to
23 2005; is that correct?

24 A. Correct.

25 Q. Was Pabst Brewing Company in the cigar

1 business at that time?

2 A. No.

3 Q. Were they in the tobacco business at that
4 time?

5 A. No.

6 Q. Okay. And how did it come that you left
7 Pabst Brewing Company to join a startup company
8 called Cafe Bom Dia, B-O-M D-I-A?

9 A. Correct. We were trying to sell Pabst. I
10 was living in Fort Lauderdale. Our office was in
11 San Antonio. I commuted the entire time.

12 And as it turns out, we didn't sell the
13 company. I didn't want to commute anymore, so I
14 resigned from the company.

15 Q. Did you -- at the time when you resigned,
16 did you have this position set up at Cafe Bom Dia?

17 A. No.

18 Q. How long did you have to look to find that
19 position?

20 A. Two months maybe.

21 Q. And you were at Cafe Bom Dia, according to
22 paragraph 55, for approximately the year of 2005; is
23 that correct?

24 A. Correct.

25 Q. And what was the business of Cafe Bom Dia?

1 A. Cafe Bom Dia was a coffee company located
2 in Brazil.

3 Q. And were you working on the
4 consumer-facing side of that business?

5 A. I was. I was in charge of sales and
6 marketing. We were trying to take Brazilian coffee
7 and sell it to major retailers in the United States.

8 Q. This says that you held that position for
9 approximately a year in 2005, correct?

10 A. Correct.

11 Q. And would it be correct to say that Cafe
12 Bom Dia was neither involved in the cigar or tobacco
13 business?

14 A. Yes.

15 Q. And what were the circumstances under
16 which you left Cafe Bom Dia?

17 A. The company had a nice business with Sam's
18 Club and Walmart. The business was lost to a
19 competitor and the company had to, basically, close
20 doors.

21 Q. So you left the company at the same time
22 that everyone else did?

23 A. No. I left first. I was the highest-paid
24 person in the company other than the founders.

25 Subsequently, the rest of the people I worked with

1 had also lost their jobs.

2 Q. Okay.

3 A. They had to reduce costs.

4 Q. So according to paragraph 54 of your
5 declaration, the next position you held was at
6 Kronos, K-R-O-N-O-S, Foods?

7 A. Right.

8 Q. And that was from late 2005 to 2006,
9 correct?

10 A. Correct.

11 Q. In total, approximately how much time did
12 you work at Kronos?

13 A. About a year.

14 Q. About a year.

15 And what was the business of Kronos?

16 A. Kronos made -- it was a Greek food company
17 that specialized in making gyro meat and other Greek
18 foods.

19 (Discussion off the record.)

20 BY MR. DEUTSCH:

21 Q. And were they in the cigar business?

22 A. No.

23 Q. Were they in the tobacco business?

24 A. No.

25 Q. And what were the circumstances under

1 which you departed from Kronos Foods?

2 A. Well, I took the job to become the next
3 CEO of that company. It was in Chicago, which is my
4 home town, which was very attractive.

5 I got into the business and I didn't enjoy
6 the business, and I had to make a tough decision
7 about what I wanted -- what I enjoyed and what I
8 want to do and what this opportunity was. And they
9 weren't in alignment.

10 Q. Were you ever offered the position of CEO
11 at that company?

12 A. I wasn't there long enough.

13 Q. Okay. But you were dissatisfied with the
14 work and decided to look elsewhere?

15 A. Correct.

16 Q. Okay. And it says you next became
17 president and chief executive officer at Starr Hill
18 Brewing from 2007 to 2011; is that correct?

19 A. Correct.

20 Q. And what was the business of that company?

21 A. That was a craft brewery.

22 Q. Where were they located?

23 A. Just outside of Charlottesville, Virginia.

24 Q. Okay. And did they have any involvement
25 in the cigar business?

1 A. No.

2 Q. Did they have any involvement in the
3 tobacco business?

4 A. No.

5 Q. Okay. And so your job immediately after
6 working at Starr Hill was as vice president of
7 marketing at General Cigar.

8 A. Correct.

9 Q. And how did you come to leave Starr Hill
10 and move to General Cigar?

11 A. I left -- I grew Starr Hill from a hobby
12 to a business and a significant brewery.

13 We were partners with Anheuser-Busch.
14 Anheuser-Busch had a change of ownership. At that
15 change of ownership, I had a recruiter who I'm
16 friendly with that called me about General Cigar.
17 He encouraged me to meet with the president of
18 General Cigar during my trips to Virginia, which I
19 did, and we ended up doing a deal together and I
20 left the beer business to go to the cigar business.

21 Q. And that president was Dan Carr --

22 A. Correct.

23 Q. -- at that time?

24 A. Correct.

25 Q. And so this was your first job ever in the

1 cigar business.

2 A. Yes, it was.

3 Q. And your first job ever in the tobacco
4 business.

5 A. Yes, it was.

6 Q. Okay. And you worked from November --
7 sorry, August 2011 and November 2016 with
8 General Cigar, correct?

9 A. That sounds right.

10 Q. And that is the only work you have ever
11 done with a cigar company, correct?

12 A. Yes.

13 Q. And you worked for General Cigar for about
14 five years and two months; is that correct?

15 A. Yes.

16 Q. Okay. So based on your declaration,
17 before you worked at General Cigar, you worked for
18 ten different companies; is that correct?

19 A. If that's what it was, yes.

20 Q. So -- well, you've listed all of your
21 employment in your declaration, correct, up to the
22 time --

23 A. Yes.

24 Q. -- of General Cigar?

25 A. Yes.

1 Q. Okay. So would it be accurate to say that
2 you have worked approximately 33 years since you
3 started at Hershey? Is that right?

4 A. I've worked about 37.

5 Q. About 37 years. Sorry. My addition is
6 wrong.

7 And your work in the cigar business, out
8 of those total 37 years, is the 5 years and 2 months
9 you worked at General Cigar, correct?

10 A. Correct.

11 Q. All right. I'm going to ask you some
12 questions about your declaration.

13 And I'll ask you to turn to page 6 -- I'm
14 sorry, paragraph 6 of your declaration, which is
15 Respondent's 37.

16 Would you please read it, and then let me
17 know when you have finished reading it and I will
18 ask you questions about it.

19 A. Okay.

20 Q. Okay. Now, you say you visited the,
21 quote, marketplace, end quote, approximately half a
22 dozen times a year; is that correct?

23 A. Yes.

24 Q. And was that a consistent half a dozen
25 times a year across the five years and two months

1 you worked for General Cigar?

2 A. I don't really recall. Some years I may
3 have been a few more; other years, I may have been
4 one or two less. But I think that, on average,
5 every other month I would take a trip.

6 Q. Okay. Were these routine trips or were
7 they the same sort of trips every year to the same
8 places, or how did that work?

9 A. Well, they were trips to go to the
10 marketplace to understand how our brands were doing
11 with certain customers or in certain markets.

12 So depending upon what our focus was and
13 what intelligence we needed to gather, I would go to
14 a specific market.

15 Q. And did you go by yourself on these trips
16 or were you accompanied by others in General Cigar?

17 A. Sometimes by myself, sometimes with
18 others.

19 Q. Okay. And how did you select the places
20 to visit?

21 A. As I said, it depended on what our
22 priorities were by brand. We managed a large
23 portfolio of brands. I may have wanted to go into a
24 market to see how a certain brand was doing, how a
25 new item was doing.

1 There may have been -- there may have been
2 situations where I wanted to understand the
3 opportunity in a marketplace --

4 Q. Uh-huh.

5 A. -- because we wanted to do something with
6 one of our brands in that marketplace.

7 And the third reason would have been there
8 was an opportunity to go evaluate our people in that
9 marketplace and kind of report back the things I saw
10 and the opportunities.

11 Q. Okay. Now, as vice president of
12 marketing, you had responsibility for a portfolio of
13 cigars, correct?

14 A. Correct.

15 Q. Of which the General Cigar Cohiba was only
16 one cigar, correct?

17 A. Correct.

18 Q. How many cigars, approximately, did you
19 have responsibility for, different brands of cigars,
20 in the position as vice president of marketing?

21 A. I don't recall exactly, but we had a large
22 portfolio. We focused on approximately ten major
23 brands, and then we had a tail of brands that
24 extended probably another 25. So total, we had
25 roughly 30, 35 brands that we had responsibility to

1 market.

2 Q. Okay. And the Cohiba was one of those ten
3 major brands?

4 A. Cohiba was one.

5 Q. Okay. Just to understand, when you talk
6 about a market visit to brick-and-mortar cigar
7 retailers, that means you were going to visit
8 physical stores, correct, stores that, you know, had
9 a door and a --

10 A. Correct.

11 Q. -- street entrance and all that sort of
12 thing.

13 A. Correct.

14 Q. And did your visiting a single physical
15 brick-and-mortar cigar store count, in your
16 calculation here, as a single visit to the
17 marketplace?

18 A. No.

19 Q. All right. How many stores did you visit
20 in the course of a year, how many actual individual
21 stores?

22 A. An average day in the marketplace would be
23 calling on six to eight stores. You know, an
24 average trip would be two or three days.

25 Q. So you might see 25 stores in the course

1 of that time?

2 A. Yes.

3 Q. Okay. How about in visiting cigar
4 distributors? Did you tend to visit multiple
5 distributors in the course of a trip out of the
6 office or was that technically just one visit?

7 A. That would -- if it was a distributor, it
8 would more than likely be one visit, because there's
9 a major distributor in the major markets that I
10 would probably visit.

11 Q. How about Internet catalog companies? If
12 it was a -- would you typically visit just one in a
13 visit?

14 A. Yes.

15 Q. Okay. And if I were to ask you today can
16 you recall any of the specific brick-and-mortar
17 cigar retailers you visited in a year, would you be
18 able to tell me that?

19 A. Who they are?

20 Q. Yes.

21 A. I could probably recall a handful.

22 Q. Tell me the handful you recall?

23 [REDACTED]

[REDACTED]

[REDACTED]

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Q. It's correct, is it not, that your

declaration does not discuss any specific

1 conversations with cigar merchants regarding
2 consumer reaction to the Cohiba cigar, correct?

3 MR. FRANK: Objection. Vague.

4 A. Can you please repeat that?

5 BY MR. DEUTSCH:

6 Q. Okay. If you take a look at paragraph 6,
7 as far as I can tell, that's the only paragraph in
8 which you discuss your interactions with cigar
9 retailers.

10 And so I'm asking you: Nowhere in this
11 paragraph do you tell about cigar retailers
12 informing you of consumer confusion as to the
13 origins of the General Cigar Cohiba, correct?

14 (Discussion off the record.)

15 BY MR. DEUTSCH:

16 Q. I'm asking you: Nowhere in this paragraph
17 do you say that cigar retailers informed you of
18 consumer confusion regarding the origins of the
19 General Cigar Cohiba; is that correct?

20 A. So a clarifying question I need to ask
21 you.

22 You are referring to the merchant that
23 worked for the cigar shop?

24 Q. I'm talking about people in -- I'm talking
25 about not consumers in the cigar shop --

1 A. Nonconsumer?

2 Q. -- but the people who either owned or
3 worked for the guy who owned it.

4 A. Okay.

5 Q. You don't say anywhere here that any of
6 those people told you that they had encountered
7 customers who were confused about the Cohiba; is
8 that correct?

9 A. I don't recall having those conversations.

10 Q. Okay. And you visited about 25 cigar
11 shops a year, correct?

12 A. No.

13 Q. I'm sorry. You said you visited six --
14 I'm sorry, that's not correct -- you visited six to
15 eight stores a year, correct?

16 A. No.

17 Q. All right. Let's try to go back again.

18 In the course of one visit to -- you had
19 approximately half a dozen visits to the
20 marketplace.

21 A. Correct.

22 Q. On each of those visits, you would visit
23 six to eight --

24 A. No.

25 Q. -- cigar stores.

1 A. No.

2 Q. Let me try to get -- let me get this
3 straight. You don't have to help me.

4 In the course of a year, how many cigar
5 stores would you visit for purposes of your work?

6 A. In the course of a year, I would take
7 approximately six trips.

8 Q. Right.

9 A. Each trip would be -- it varied -- two to
10 three days, on average.

11 Q. Right.

12 A. An average day, I would make six to eight
13 calls on cigar stores.

14 Q. So let's try to be conservative. You
15 would make six trips, they would be two to three
16 days, and you would visit six to eight cigar stores.

17 A. Uh-huh.

18 Q. So at a minimum, you would -- let me see
19 if I have this correct -- you would visit about 60
20 cigar stores in the course of a year?

21 A. Six trips, two days, say, if you want to
22 be conservative, times twelve.

23 Q. Yeah.

24 A. So 12 times 6, 72.

25 Q. Okay. 72.

1 And you did this each year during the five
2 and a half years?

3 A. Some were more, some were less, but I went
4 in the market each year.

5 Q. Right. But these are your approximations
6 as best you could recall at the time you did your
7 declaration, and they're still your recollection,
8 right?

9 A. That's what I recall.

10 Q. So conservatively speaking, you went to
11 200 or more cigar stores in the course of your work
12 as vice president of marketing, correct?

13 A. Yes.

14 Q. And you don't recall any instance in which
15 a cigar store owner or cigar store employee said to
16 you, in substance, "Hey, I've got consumers who are
17 confused as to where your General Cigar Cohiba is
18 coming from."

19 A. To the best of my recollection, yes.

20 Q. Okay. Now, you also say in paragraph 6
21 that you also attended evening cigar events
22 involving consumers.

23 Some of these events were dedicated to or
24 included General Cigar's Cohiba cigars, correct?

25 A. Correct.

1 Q. Okay. What are these evening cigar
2 events? What are they like?

3 A. Well, some of them were promotions that --
4 experiential promotions that General Cigar would
5 have with various tobacco shops around the country.

6 Q. Uh-huh.

7 A. Others would be larger events. For
8 example, Cigar Aficionado puts on a Big Smoke event
9 in locations across the country each year. So they
10 would vary between those two types of events.

11 Q. Okay. Approximately how many evening
12 cigar events did you attend in the course of a given
13 year?

14 A. About half a dozen.

15 Q. So you attended somewhere in the range of
16 30 of these while you were at General Cigar?

17 A. On the high side.

18 Q. Maybe 25?

19 A. 25 to 30, I would say.

20 Q. Okay. 20 to 30 evening cigar events.

21 When you went to these things, were you
22 generally identified by a name tag or something as
23 being a General Cigar executive?

24 A. Perhaps at the Big Smokes, I just don't
25 recall, but not in the smaller ones.

1 Q. Okay. Did you tend -- were there events
2 where you were at a General Cigar booth or stand or
3 table?

4 A. Yes.

5 Q. Okay. How common was that?

6 A. Big Smoke. Less common than the smaller
7 events that we did by brand.

8 Q. Uh-huh.

9 And when you say you did events by brand,
10 that would mean, for example, that if you were
11 promoting Partagas, there would be a Partagas event?

12 A. We rolled out -- normally, after the big
13 convention each year, we would introduce new cigars
14 to the marketplace. And it would be common that we
15 would go out in the marketplace and do events with
16 our tobacconists to get consumers to try the new
17 cigars.

18 Q. Okay. Of the events -- the 20 to 30
19 evening events you told me about, how many of them
20 were specifically dedicated to the Cohiba cigar?

21 A. A small amount.

22 Q. Right. When you say "small," what do you
23 mean?

24 A. I can recall one.

25 Q. One. Okay.

1 Can you recall any other events that were
2 dedicated to a specific General Cigar cigar?

3 A. Yes.

4 Q. And what were those?

5 A. I recall an event with Punch. I recall an
6 event with Macanudo Inspirado.

7 Q. Okay. So if you take a look now at
8 paragraph 8 of your declaration.

9 MR. DEUTSCH: Actually -- take a look.

10 I'm just going to get some water.

11 (Discussion off the record.)

12 BY MR. DEUTSCH:

13 Q. Okay. Have you had a chance to read
14 paragraph 8 of your declaration?

15 A. I have.

16 Q. Okay. Now, you say that during your work
17 at General Cigar over the course of five and a half
18 years, "I interacted with many premium cigar
19 consumers in the United States each year."

20 Beyond these evening events that you've
21 talked about, what other circumstances would you
22 interact with premium cigar consumers?

23 A. In trade visits --

24 Q. Uh-huh.

25 A. -- and just in my day-to-day social and

1 professional life.

2 [REDACTED]

[REDACTED]

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Q. Can you think of any reason why someone who didn't know you were working with General Cigar would discuss the Cohiba with you?

6

7

8

A. I can't think of a specific example, but I said that because I -- you know, I have friends and -- professional and social friends, and --

9

Q. Sure.

10

A. -- it's come up in conversation.

11

12

13

Q. Well, excluding people who you knew, friends, social friends, acquaintances, as you said here --

14

A. Okay.

15

16

Q. -- did everyone who asked you about -- withdrawn.

17

18

19

20

Excluding friends and acquaintances, did everyone with whom you had a conversation regarding the Cohiba who was a consumer, to your knowledge, know you worked for General Cigar?

21

22

23

24

A. No. I mean, I can think of one example. It was a holiday Christmas party back in -- right around the time I joined General Cigar, so that must have been 2011.

25

I was sitting in -- watching the Fort

1 Lauderdale boat parade at somebody's house on the
2 Intracoastal and I brought a box of Cohibas over --

3 Q. Uh-huh.

4 A. -- a white box. And somebody that didn't
5 know I worked for General Cigar -- they may have
6 known I was in the cigar business, I don't recall --
7 asked me where the Cohiba was from.

8 Q. And what did you tell them?

9 A. I told them it was a Dominican Cohiba.

10 Q. Okay. Did you have further conversations?

11 A. Not really. They appreciated the cigars.

12 Q. Sure.

13 And in this paragraph, you don't identify
14 any occasion in which friends and acquaintances
15 brought up the Cohiba cigar, but you say, in fact,
16 there were occasions when that occurred other than
17 the one you just mentioned?

18 A. Are you asking me were there other
19 occasions?

20 Q. I'm asking were there occasions where you
21 discussed the Cohiba with friends and acquaintances,
22 other than the one you just mentioned a few minutes
23 ago.

24 A. I'm sure.

25 Q. Can you recall any?

1 A. No.

2 Q. Can you recall any of them in which your
3 friends and acquaintances expressed confusion as to
4 the origin of the General Cigar Cohiba?

5 A. I can't think of one.

6 Q. Okay. Can you look at paragraph 9 of your
7 declaration, please.

8 A. Okay.

9 Q. Now, is it correct that your declaration
10 states that -- and these are your words -- a very
11 small number of consumers with whom you spoke
12 expressed confusion between the General Cigar and
13 Cuban Cohiba cigars, correct?

14 A. Correct.

15 Q. And "very small," that's your own words,
16 correct? That's the word you used here?

17 A. I didn't write this, so I can't -- I don't
18 know.

19 Q. But you signed the declaration.

20 A. True, yes.

21 Q. So it's true that it was a very small --

22 A. It was a very small number.

23 Q. Okay. And it's accurate that you can't
24 recall the specific date of any single one of these
25 small number of consumer interactions, correct?

1 A. I cannot recall a specific date.

2 Q. Can you recall the location where any of
3 these interactions occurred?

4 A. There's two situations which I believe I
5 presented previously that I do recall. One was at
6 Club Macanudo and one was at a Big Smoke.

7 Q. Let me ask you about the Big Smoke, and
8 I'll go on to Club Macanudo in a second.

9 What happened at the Big Smoke?

10 A. The Big Smoke -- I can't recall if it was
11 New York or Las Vegas -- we were giving away
12 Cohibas, and the consumer asked if they were from
13 Cuba.

14 Q. Okay. Did you know if that consumer was a
15 regular smoker of premium cigars?

16 A. I don't.

17 Q. Did you have any conversation other
18 than --

19 A. None.

20 Q. I have to finish.

21 A. I'm sorry.

22 Q. Did you have any conversation with that
23 consumer other than answering that question?

24 A. No. Because Big Smoke is -- it's like
25 Halloween for adults. People are coming through

4	A. Correct.
---	-------------

7 A. Say that again.

10 A. I don't --

11 Q. -- Cuban cigars?

12 A. -- know.

13 Q. I've got to still finish it.

14 A. I thought you were. You paused.

15 MR. DEUTSCH: Off the record.

16 (Discussion off the record.)

17 BY MR. DEUTSCH:

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists the age groups and genders. The x-axis represents the percentage, ranging from 0 to 100. The bars are colored blue for Male and pink for Female. The data is as follows:

Age Group	Gender	Percentage
18-29	Male	85%
	Female	88%
30-49	Male	82%
	Female	85%
50-69	Male	78%
	Female	80%
70+	Male	75%
	Female	78%

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1 Q. And this is what you -- please answer the
2 question I'm asking you.

3 This is the declaration you signed,
4 correct?

5 A. Correct.

6 Q. And I'm asking you now: Is it the case
7 that you can only recall one instance in which a
8 consumer told you that they were surprised to learn
9 that the General Cigar's Cohiba cigar they had
10 smoked was not the Cuban Cohiba cigar?

11 A. Correct.

12 Q. Okay. And this is the only exchange in
13 which you give any substance of a conversation
14 between you and a consumer that indicated that the
15 consumer was confused --

16 MR. FRANK: Objection.

17 BY MR. DEUTSCH:

18 Q. -- is that correct?

19 A. Yes.

20 Q. Do you ever remember a premium cigar
21 consumer telling you that they were not aware that
22 there was a U.S. embargo on sales of Cuban cigars in
23 the U.S.?

24 A. I can't think of a specific situation.

25 Q. Would it be fair to say that among premium

1 cigar smokers, consumers, it was generally known
2 that there was an embargo on selling Cuban cigars in
3 the U.S.?

4 MR. FRANK: Objection. Speculation.

5 BY MR. DEUTSCH:

6 Q. Based upon your experience at
7 General Cigar.

8 A. It depends on to the extent that they're
9 involved with premium cigars.

10 Q. Well, the question -- I'll ask you the
11 question differently.

12 Among a -- among premium cigar consumers,
13 people who smoke premium cigars, would you say it's
14 generally known that there is an embargo against
15 sales of Cuban cigars in the United States?

16 MR. FRANK: Objection.

17 A. I think it depends on if they're a cigar
18 lover or they're an occasional cigar smoker or
19 they're a premium cigar smoker that smokes a cigar
20 once a year at a wedding.

21 BY MR. DEUTSCH:

22 Q. Okay. What do you define "premium cigar
23 smoker" as, in your mind?

24 A. As I just said, there are various levels
25 of consumers across all categories. There are

1 people that love cigars that may smoke ten cigars a
2 week, maybe more than that; there are occasional
3 cigar smokers that may smoke on the golf course
4 every Sunday; and then there are cigar smokers that
5 are -- you know, they rarely smoke a premium cigar,
6 but they are a premium cigar smoker.

7 Q. Okay. So all of those fall into your
8 category of premium cigar smoker?

9 A. Sure.

10 Q. Okay. And which of those consumers are
11 the most knowledgeable about cigars?

12 A. You would certainly think cigar lovers
13 would be most knowledgeable.

14 Q. And how do you define "cigar lover"?

15 A. Somebody that smokes a lot of cigars, at
16 least probably ten a week.

17 Q. And someone who smokes a cigar once a
18 week, are they knowledgeable?

19 A. Some are, some aren't.

20 Q. And how did you go about learning what the
21 knowledge of cigar smokers were -- was? Excuse me.

22 MR. FRANK: Objection.

23 MR. DEUTSCH: I'll withdraw the last.

24 BY MR. DEUTSCH:

25 [REDACTED]

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Q. Mr. Willner, do you recall giving your deposition in this case previously for discovery? You remember giving a discovery deposition in this case in 2017?

9

A. Correct.

10

11

Q. And I'm going to ask you a question or two regarding that.

12

13

MR. DEUTSCH: Do you have a copy or do you need a copy?

14

15

MR. FRANK: Why don't you give me a copy of what you're looking at.

16

(Discussion off the record.)

17

BY MR. DEUTSCH:

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Q. Okay. I'm going to ask you to take a look at page 48 of your deposition. And I want you to start -- these are four pages that have been compressed for ease.

22

23

I'll ask you to start at the bottom of page 48 --

24

A. Okay.

25

Q. -- and just read across to --

1 MR. FRANK: Objection. What's the basis
2 for introducing this?

3 MR. DEUTSCH: I don't have to have a
4 basis. You can object, though, if you want to.
5 BY MR. DEUTSCH:

6 Q. Paragraph -- line 7 on page 49. So if you
7 would just look from the "No, he didn't." That's at
8 the very bottom.

9 A. So I'm to start reading this from the
10 bottom right?

11 Q. Yes, where it says, "No, he didn't."

12 A. "No, he didn't." Okay. Okay.

13 MR. FRANK: Page 48 or 49?

14 MR. DEUTSCH: Page 48, line 21.

15 A. Okay.

16 BY MR. DEUTSCH:

17 Q. And read it through to line 7 on the next
18 page, 49.

19 A. Okay.

20 Okay.

21 Q. Does your deposition -- does that refresh
22 your recollection that you hired Mr. Murphy in 2015?

23 A. I hired Mr. Murphy -- in the deposition
24 that I previously gave, which was over two years
25 ago --

1 Q. Right.

2 A. -- was probably more accurate than my
3 recollection now.

4 Q. Okay. So you have no reason to believe
5 that you were incorrect when in 2017 you testified
6 you hired him in 2015?

7 A. No.

8 Q. Okay. Now, you have only spoken
9 frequently with Mr. Murphy about the General Cigar
10 Cohiba, correct?

11 A. Please restate that.

12 Q. Is it correct that you only spoke
13 infrequently with Mr. Murphy about the General Cigar
14 Cohiba?

15 A. Yes.

16 Q. Okay. I'm going to ask you to take a look
17 at your deposition transcript. This is page 60,
18 line 11, through page 61 -- I'm sorry, line 7, to
19 page 61, line 8. So starting on line 7 on page 60.

20 MR. FRANK: Objection.

21 MR. DEUTSCH: So noted.

22 MR. FRANK: Just for the record,
23 objection. Lack of foundation.

24 Is this to refresh his recollection?

25 MR. DEUTSCH: I'm just asking him to read

1 it at the moment, nor do I have to give you a
2 reason why I'm asking him to read it. This is
3 a trial examination, not a deposition.

4 A. Okay.

5 BY MR. DEUTSCH:

6 Q. Okay. So at the time you gave your
7 deposition, that was closer to the events we're
8 talking about than today, correct?

9 A. I'm not sure I understand the question.

10 Q. Well, you gave this in October 2017,
11 correct?

12 A. Correct.

13 Q. Today we're at the end of 2019, correct?

14 A. That's correct.

15 Q. So the deposition was given about two
16 years ago, correct?

17 A. Correct.

18 Q. That was two years closer to your time of
19 work at --

20 A. Of course, yes.

21 Q. I've still got to finish.

22 -- your time working at General Cigar,
23 correct?

24 A. Correct.

25 Q. Okay. And is it correct that when -- I'm

1 going to sort of link these two together -- on page
2 60, you were asked, "Do you recall any" -- this is
3 line 7:

4 "Question: Do you recall any specific
5 conversations or discussions concerning
6 General Cigar's Cohiba" --

7 Sorry. I'm going to start again.

8 [REDACTED]

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Age Group	Percentage
18-24	100
25-34	90
35-44	80
45-54	70
55-64	60
65-74	50
75-84	40
85-94	30
95-104	20

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BY MR. DEUTSCH:

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Q. Okay. And you didn't recall it at the
time that you put together your declaration or that
it was drafted for you, to be more accurate?

MR. FRANK: Objection.

1 A. I'm not sure I understand that question.

2 BY MR. DEUTSCH:

3 Q. Okay. You previously testified that
4 Mr. Frank's law firm drafted the declaration for
5 you, correct?

6 A. Yes.

7 Q. And, presumably, they had access to your
8 deposition testimony, correct?

9 MR. FRANK: Objection.

10 A. Assume so.

11 BY MR. DEUTSCH:

12 Q. And, presumably, they had access to all of
13 the exhibits that were marked at your declaration --
14 at your deposition, correct?

15 MR. FRANK: Objection.

16 A. I assume so.

17 BY MR. DEUTSCH:

18 Q. And, presumably, they had access to all
19 the discovery that General Cigar had provided to
20 Cubatabaco in the course of the litigation, correct?

21 MR. FRANK: Objection.

22 A. Assume so.

23 BY MR. DEUTSCH:

24 Q. Okay. They didn't show you any of that
25 when they gave you the declaration, did they?

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A. No.

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Q. Okay. Be fair to say that expressions of confusion among consumers regarding the origin of the General Cigar Cohiba cigar to you were quite rare, correct?

MR. FRANK: Objection.

A. Please repeat that.

BY MR. DEUTSCH:

Q. Would it be fair to say the expressions of confusion among consumers to you regarding the origin of the General Cigar Cohiba cigar were quite rare?

MR. FRANK: Objection.

A. Yes.

BY MR. DEUTSCH:

Q. Now, if you take a look at paragraph 13 of

1 your declaration. And let me know when you are
2 done.

3 A. Okay.

4 Q. Now, General Cigar, as you previously
5 testified, has a large portfolio of cigars, correct?

6 A. Yes.

7 Q. And many of those have a strong brand
8 connection with Cuba; is that correct?

9 A. Yes.

10 Q. One of those brands is Partagas, correct?

11 A. Yes.

12 Q. And Partagas is a General Cigar brand,
13 correct?

14 A. Yes.

15 Q. Strong Cuban connection?

16 A. Yes.

17 Q. Okay. And another General Cigar brand
18 with a strong Cuban connection is Hoyo de Monterrey;
19 is that correct?

20 A. Yes.

21 Q. And another is La Gloria Cubana?

22 A. Yes.

23 Q. And another is Punch, correct?

24 A. Yes.

25 Q. And all of these have strong Cuban

1 associations, correct?

2 A. Yes.

3 Q. Okay. Who produces the Montecristo that's
4 sold in the U.S.?

5 A. Imperial Tobacco.

6 Q. In your view, does that have a strong
7 Cuban brand association?

8 A. Yes.

9 Q. Who produces the Romeo y Julieta cigar
10 that's sold in the U.S.?

11 A. Imperial Tobacco.

12 Q. Does that have a strong Cuban brand
13 association?

14 A. Yes.

15 Q. And is Cuban equity and Cuban brand
16 association essentially the same term, in your mind?

17 A. Yes.

18 Q. Okay. So it would be fair to say that
19 there are scores of cigar brands in the United
20 States that have Cuban equities.

21 A. Yes.

22 Q. And, in fact, you can't even name all of
23 those brands, can you?

24 A. No.

25 Q. So, in fact, it's fair to say that

1 consumers have a close association with cigars as a
2 product and Cuba; isn't that correct?

3 MR. FRANK: Objection.

4 A. People that love premium cigars have that
5 association.

6 BY MR. DEUTSCH:

7 Q. And do you know what people who don't love
8 premium cigars associate one way or the other?

9 A. The category has so little penetration
10 that I think that there's a lot of consumers, a
11 majority, that don't know anything about cigars.

12 Q. When you say the majority of consumers, do
13 you mean the majority of cigars are sold --
14 withdraw.

15 Is it your testimony that the majority of
16 premium cigars are sold to people who know nothing
17 about cigars?

18 A. No.

19 Q. What is your testimony, then, on that
20 point?

21 MR. FRANK: Objection.

22 A. You asked me -- if I understood the
23 question correctly, you asked me if consumers had --
24 my words -- but an awareness of the Cuban brand
25 association to the cigar category.

1 BY MR. DEUTSCH:

2 Q. Let me try to phrase it a different way.

3 A. Okay.

4 Q. Among premium cigar smokers as you define
5 them --

6 A. Okay.

7 Q. -- do they make a close association
8 between cigars as a product and Cuba?

9 MR. FRANK: Objection.

10 A. Again, I think most do, but not all.

11 BY MR. DEUTSCH:

12 Q. But most do.

13 A. Particularly people that smoke a lot of
14 cigars or are what would be considered an average
15 amount of cigars.

16 Q. Okay. So premium cigars that are sold in
17 the United States aren't generally made entirely of
18 tobacco grown in the United States, are they?

19 A. Correct.

20 Q. Filler tobacco is almost always grown
21 outside of the United States?

22 A. Yes.

23 MR. FRANK: Objection.

24 BY MR. DEUTSCH:

25 Q. Okay. When you were with General Cigar,

1 did General Cigar always place an indication of
2 geographic origin on its Cohiba cigars? Let me
3 rephrase it a different way.

4 If a General Cigar cigar was made in the
5 Dominican Republic, did it say "Made in the" --

6 A. I was just --

7 Q. -- "Dominican Republic"?

8 A. Sorry. I'm thinking of the -- I'm just
9 trying to recall the boxes that were marketed. And
10 I believe that they all referred to the Dominican
11 Republic.

12 Q. And the ones that were made in Nicaragua
13 referred to Nicaragua?

14 A. Yeah. And towards -- and there were some
15 made, very few, in Nicaragua. Actually, there was
16 only one when I was there made in Nicaragua that
17 would have been -- I can't recall how we labeled
18 that package.

19 Q. But as far as you know, there was no
20 indication on the package that it was of Cuban
21 origin.

22 A. Correct.

23 MR. FRANK: Objection.

24 BY MR. DEUTSCH:

25 Q. Do you know of any cigar that

1 General Cigar sold to the public while you were
2 working for General Cigar that contained an
3 indication that the cigar came from Cuba?

4 A. No.

5 Q. Do you know of any cigar sold by
6 General Cigar while you were working there that
7 contained an indication that the tobaccos were of
8 Cuban origin?

9 A. No.

10 Q. While you were at General Cigar and
11 heading up marketing, you were responsible for
12 advertising of General Cigar's products, were you
13 not?

14 A. Yes.

15 Q. Did you review and approve advertisements
16 before they were used?

17 A. Yes.

18 Q. Did any advertisement, that you reviewed
19 while you were at General Cigar, ever state that the
20 General Cigar Cohiba was made in Cuba?

21 A. No.

22 Q. Did any advertisement that you approved
23 say that the General Cigar Cohiba was made with
24 Cuban tobacco?

25 A. No.

1 Q. While you were working for General Cigar,
2 did you ever believe -- approve a General Cigar
3 advertisement that you believed would deceive the
4 premium cigar consumer?

5 A. No.

6 Q. Did you ever approve a General Cigar
7 marketing initiative other than advertising that you
8 believe would deceive the premium cigar consumer?

9 A. No.

10 Q. Did you ever take any steps while you were
11 employed by General Cigar and head of marketing to
12 deliberately confuse the premium cigar consumer
13 about the origin of the General Cigar Cohiba?

14 A. No.

15 Q. Did you ever approve any consumer-facing
16 marketing that you believed would confuse the
17 premium cigar [sic] about any General Cigar brand?

18 A. No.

19 Q. Your declaration says you've been
20 marketing for a long time, correct?

21 A. Correct.

22 Q. And do you think of yourself as an ethical
23 marketer?

24 A. Yes.

25 Q. And would you agree that ethical marketers

1 don't try to confuse consumers as to the origin of
2 products?

3 MR. FRANK: Objection.

4 A. I can't speak for all marketers.

5 BY MR. DEUTSCH:

6 Q. You can only speak for yourself.

7 A. Correct.

8 Q. But you've never tried to confuse
9 consumers as to the origin of products, have you?

10 A. No.

11 Q. And you don't recall ever approving a step
12 taken by your subordinates that you believe would
13 confuse consumers as to the origin of General Cigar
14 products; is that correct?

15 A. Not that I can recall.

16 Q. Okay. Could you take a look at paragraph
17 16 of the declaration.

18 MR. FRANK: Off the record.

19 (Discussion off the record.)

20 MR. DEUTSCH: Let's take a break.

21 (Recess was held from 11:15 a.m. until 11:22 a.m.)

22 MR. DEUTSCH: All right. Let's go back on
23 the record. This is really not going to be all
24 that long today, at least not for me.
25

BY MR. DEUTSCH:

Q. All right. I asked you to look at

A. I'm finished.

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Q. Okay. Have you ever met anybody else who
has that point of view?

A. Yes.

Q. Who?

A. Friends, acquaintances, people that are
close to me as we have conversations.

Q. I see.

Are these people in the cigar business?

A. No.

Q. Okay. Now can you take a look at
paragraph 44 and 45 of your declaration.

A. 40 and 45?

1 Q. Sorry, 44 and 45.

2 A. I'm sorry.

3 Okay.

4 Q. Did you have any involvement in the
5 redesign of the -- General Cigar's Cohiba website?

6 A. Yes.

7 Q. What was your personal involvement?

8 A. I was accountable for it.

9 Q. I'm sorry?

10 A. I was accountable for the website.

11 Q. Okay. So did you view the various
12 iterations of the revamped website as they were
13 being prepared?

14 A. Yes.

15 Q. Did you approve the website in its final
16 form?

17 A. With others.

18 Q. But you approved it, as well?

19 A. I was part of the approval process.

20 Q. And you were accountable for it?

21 A. For developing the website, yes.

22 Q. Are you accountable for what was on the
23 website?

24 A. I think our company was accountable for
25 what was on the website.

1 Q. Okay. Did you make your best effort to
2 determine that what was on the website was accurate?

3 A. Yes.

4 Q. Okay. Did you believe, as director of
5 marketing, that it was necessary to include what
6 your declaration calls a Cohiba disclaimer on the
7 new Cohiba website?

8 A. The subject matter of disclaimer never
9 came up in my entire tenure at General Cigar.

10 Q. Okay. That's not quite the question.
11 Did you believe that it was necessary to
12 include on the new General Cigar Cohiba website a
13 statement that the General Cigar Cohiba is not
14 associated with the Cuban Cohiba?

15 A. First of all, I don't -- I haven't looked
16 at that website since I left General Cigar, so I
17 don't even recall if we put a disclaimer on it or
18 not and I don't recall any discussion about it.

19 Q. So I'm still not quite sure I'm getting
20 across.

21 I'm asking you to recall, as best as you
22 can, your interactions with the website redesign
23 while you were vice president of marketing.

24 Do you recall ever reaching the conclusion
25 that there was a need for a disclaimer stating that

1 the General Cigar Cohiba is not associated with the
2 Cuban Cohiba cigar?

3 A. No.

4 Q. Do you recall anyone else who had an
5 involvement in the website stating to you their
6 thought that there should be such a disclaimer
7 placed on the website?

8 A. No.

9 Q. Okay. Would it be fair to say that you
10 didn't think such a recommendation -- I'm sorry.
11 Withdrawn.

12 Was it fair to say that you did not think
13 that a disclaimer would be necessary to put on the
14 website to avoid consumer confusion?

15 MR. FRANK: Objection.

16 A. Subject never came up.

17 BY MR. DEUTSCH:

18 Q. Did you think there was anything confusing
19 to the consumer about the revamped Cohiba website?

20 MR. FRANK: Objection.

21 A. No.

22 BY MR. DEUTSCH:

23 Q. Okay. Can you look at paragraph 46 of
24 your declaration.

25 A. Okay.

1 Q. So just to be clear, again, you were the
2 head of all General Cigar's marketing during the
3 time you worked there, correct?

4 A. Yes.

5 Q. And that included advertising, correct?

6 A. Correct.

7 Q. And promotion, correct?

8 A. Correct.

9 Q. And it would be accurate to say it
10 included anything that was consumer facing with
11 regard to General Cigar's products, correct?

12 A. Yes, but tobacconists also can activate
13 consumer-facing things --

14 Q. Okay.

15 A. -- that I may or may not have known about.

16 Q. But as far as matters within your control
17 at General Cigar, you were in charge of all
18 consumer-facing initiatives.

19 A. Correct.

20 [REDACTED]
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Q. Could you take a look at paragraph 47,
please.

A. Okay.

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Q. Okay. Do you ever recall reading anything

A. I don't.

A. Okay.



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12 MR. DEUTSCH: Let's go off the record for
13 five.

14 (Recess was held from 11:40 a.m. until 11:42 a.m.)

15 MR. DEUTSCH: We're back on the record.

16 BY MR. DEUTSCH:

17 Q. Would you look at paragraph 17 of your
18 declaration, please, and let me know when you've had
19 a chance to read it.

20 A. Okay.

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Q. And when you say "inconsistency," what do you mean?

A. Although I did hear from friends and -- social and professionals, that they bought Cuban cigars that were Cohiba that were not what they used to be.

Q. And in what way were the Cohiba cigars not what they used to be?

A. The kind of anecdotal comments I heard were a lot of the old-school Cuban tobacco rollers have passed on and the new rollers are not as skilled at making premium cigars in Cuba, and

1 because of that, the quality is inconsistent.

2 And so I formed my opinion that I
3 expressed here based on that type of feedback.

4 Q. Did you smoke Cuban cigars yourself?

5 A. Have I smoked Cuban cigars? Yes.

6 Q. Were you smoking them at the time that you
7 were vice president of General Cigar?

8 A. Yes.

9 Q. Was your experience with Cuban cigars
10 consistent with what you just said other people were
11 telling you, mainly that the quality had declined?

12 A. I didn't smoke enough Cuban cigars, nor
13 had I smoked many Cuban cigars previously, to make a
14 comparison. I found the experience fine, no
15 better/no worse than other cigars that I have
16 smoked.

17 Q. No better/no worse than General Cigar's
18 own nonCuban cigars?

19 A. Correct.

20 Q. You said that your friends were telling
21 you their view was the passing away of old-time
22 cigar rollers were having an effect on Cuban cigars,
23 correct?

24 A. Correct.

25 Q. And in what ways does that lack of the

1 traditional cigar rollers affect the smoking
2 experience?

3 MR. FRANK: Objection. Speculation.
4 Hearsay.

5 A. I don't know exactly.

6 MR. FRANK: Foundation.

7 BY MR. DEUTSCH:

8 Q. Well, did they complain about the draw?
9 Did they complain about the flavor? You know what
10 were -- did they tell you any more detail than the
11 fact that it was inconsistent?

12 MR. FRANK: Objection.

13 A. The word "inconsistent" is what I recall.

14 BY MR. DEUTSCH:

15 Q. Okay. And "inconsistent" means that
16 different cigar -- cigars within the same box would
17 have different smoking experiences --

18 MR. FRANK: Objection.

19 BY MR. DEUTSCH:

20 Q. -- is that correct?

21 A. Correct.

22 Q. You made various statements in your
23 declaration regarding the brand plan that was
24 presented -- prepared for Cohiba cigars, correct?

25 A. Yes.

1 Q. And brand plans for other cigar brands, as
2 well, correct?

3 A. Yes.

4 Q. Were these brand plans made available to
5 the public?

6 A. No.

7 Q. Were these carefully kept trade secrets of
8 General Cigar, as far as you were concerned?

9 A. Carefully kept secrets?

10 Q. Well, was this confidential information?

11 A. They weren't stamped "Confidential," but
12 it was certainly important kind of proprietary
13 information to people within our company.

14 Q. Did you want Imperial to have your brand
15 plans every year?

16 A. No, but I wouldn't be surprised if they
17 did.

18 Q. Yeah, but that's not something you wanted,
19 correct?

20 A. No.

21 Q. And the brand plans themselves are not
22 advertising, correct?

23 A. Correct.

24 Q. Okay. So any statements that were made
25 within the marketing department regarding the brand

1 plan as it evolved would not be information that
2 would be given to the public, correct?

3 MR. FRANK: Objection. Vague.

4 A. Correct.

5 BY MR. DEUTSCH:

6 Q. Can you answer the question?

7 A. Correct.

8 Q. Okay. So if something was put into a
9 draft brand plan and then taken out before the final
10 brand plan was presented to senior management, the
11 public, the cigar-smoking public, wouldn't know
12 about that, correct?

13 MR. FRANK: Objection.

14 A. Well, I don't know. They shouldn't, but
15 in any company in any category, most internal
16 documents get in the market and to competition.

17 BY MR. DEUTSCH:

18 Q. But you don't know of any such documents
19 that fell into the hands of ordinary premium cigar
20 consumers, as opposed to people in the business?

21 A. I personally do not.

22 Q. Okay. And they weren't intended to be
23 seen by the general public, correct?

24 MR. FRANK: Objection.

25 A. The brand plans, you're asking?

1 BY MR. DEUTSCH:

2 Q. Yes, the brand plan.

3 A. Correct.

4 Q. And drafts of the brand plans weren't
5 intended -- drafts of the brand plans weren't
6 intended to be seen by the public either, correct?

7 MR. FRANK: Objection.

8 A. That's correct.

9 BY MR. DEUTSCH:

10 Q. Now, you state in your declaration that
11 you were named interim president of General Cigar in
12 November 2015, correct?

13 A. Correct.

14 Q. Did you expect, at that point, that you
15 would eventually become the full-time president of
16 General Cigar?

17 A. No, although I held a little bit of
18 promise that maybe I would.

19 Q. Who appoints the president at
20 General Cigar?

21 A. It was Niels Frederiksen in Copenhagen,
22 Denmark.

23 Q. And what was his position at the time?

24 A. He was the CEO of Scandinavian Tobacco
25 Group.

1 Q. And Scandinavian Tobacco Group sometimes
2 is initialized as STC; is that right?

3 A. STG.

4 Q. STG, rather.

5 And it owns General Cigar, correct?

6 A. Correct.

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A. Correct.

A. Correct.

A. Correct.

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25-34	90
35-44	80
45-54	70
55-64	60
65-74	50
75-84	40
85-94	30
95-104	20

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Q. Okay. And was your application turned

1 down because you were receiving severance payments
2 from General Cigar?

3 A. Oh, yeah, yeah. It was -- it was -- I
4 believe it was initially turned down, and then I
5 think it was -- when that -- when severance stopped,
6 I believe it kicked back in.

7 Q. You filed an appeal from the determination
8 and --

9 A. Yeah, I think I did.

10 Q. And was the appeal denied?

11 A. I don't recall.

12 Q. Okay. Do you recall ever -- do you recall
13 receiving unemployment benefits at any time while
14 you were receiving severance from General Cigar?

15 A. I think there may have been one payment
16 made by the State while I was receiving severance.

17 [REDACTED]

[REDACTED]

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20 Q. And you signed your declaration on
21 October 4, 2018, correct?

22 A. That's what that says.

23 Q. But it's a fact, what happened, right?
24 You signed it on October 4, 2018?

25 A. If that's what it says, I must have. I

1 told you earlier that I don't recall signing it.

2 Q. Okay. And do you recall when you first
3 discussed providing a declaration for Cubatabaco in
4 this proceeding?

5 A. I'm sorry. Please repeat that.

6 Q. Do you recall when you first talked to
7 someone at General -- I'm sorry, Cubatabaco's
8 lawyers about giving them a declaration in this
9 proceeding?

10 A. Well, we talked about that earlier. I
11 don't remember talking about a declaration. This is
12 just what I recall. I recall getting it in an
13 email.

14 Q. Do you recall how long the process took
15 from that email until you signed your declaration?

16 A. We also talked about that earlier, and I
17 don't recall.

18 Q. Okay. But it was shortly after your
19 ineligibility for unemployment ended, correct?

20 MR. FRANK: Objection.

21 A. I don't recall.

22 BY MR. DEUTSCH:

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Q. And you, in fact, appealed from the denial of those benefits.

A. I think I did.

MR. DEUTSCH: All right. Then I have another couple of minutes and I may be done.

MR. FRANK: Okay. Do you want to go off the record?

MR. DEUTSCH: Yeah, we'll go off the record.

(Recess was held from 12:04 p.m. until 12:08 p.m.)

MR. DEUTSCH: I have no further questions for the witness at this point, but I may have recross depending on the nature of Mr. Frank's redirect.

Do you want to take a lunch?

MR. FRANK: Yeah. Let's go off the record.

1 (Recess was held from 12:08 p.m. until 1:35 p.m.)

2 CROSS EXAMINATION

3 BY MR. FRANK:

4 Q. Well, Mr. Willner, my name is Lindsey
5 Frank. I'm the attorney for Empresa Cubana Del
6 Tabaco, DBA Cubatabaco. I'm just going to ask you
7 some follow-up redirect questions.

8 Do you recall responding to Mr. Deutsch's
9 questions about the drafting of your declaration --

10 A. Yes.

11 Q. -- earlier -- responding earlier today?

12 A. Yes.

13 Q. Do you recall stating that you do not
14 recall if there was a call between you and me prior
15 to you receiving the draft declaration?

16 A. I recall saying that I couldn't recall.

17 Q. Would it refresh your recollection if you
18 were to review the email attaching the initial draft
19 that you received?

20 A. Yes.

21 And if I can continue on for a second. At
22 lunch, of course, I went back and looked at previous
23 emails, so I understand the communication flow now.

24 There was numerous correspondence between
25 yourself and me, your attempts to try to get my

1 time. My time was I had just started a new position
2 around that time and it was somewhat difficult for
3 us to connect.

4 But I have specific dates of follow-up
5 emails that were results of communication links that
6 we had.

7 Q. Okay. And were there any draft or drafts
8 of your declaration that you had received prior to
9 your signing your declaration?

10 A. Yes.

11 Q. And at any point, did you have any
12 communications with myself concerning your
13 declaration prior to your receiving a draft of your
14 declaration from me?

15 A. Yes.

16 Q. Was your draft declaration modified in any
17 way after our communications -- after your
18 communications with me?

19 A. Yes.

20 Q. After receiving the draft of your
21 declaration from me, did you modify it in any way?

22 A. You had asked me to review it and share
23 any changes I felt were appropriate, which I did.

24 Q. And after receiving the initial draft of
25 the declaration from me, did you have any subsequent

1 conversations with me?

2 A. Yes.

3 Q. Was there more than one conversation about
4 the draft of your declaration?

5 A. Yes.

6 Q. Was there more than one draft of the
7 declaration prior to your signing it?

8 A. Yes.

9 Q. Before signing your declaration, did you
10 review each and every statement contained in the
11 draft of your declaration?

12 A. Yes.

13 MR. DEUTSCH: Objection to form.

14 BY MR. FRANK:

15 Q. Did you believe that the final draft of
16 your declaration stated the facts accurately and
17 honestly?

18 A. Yes.

19 MR. DEUTSCH: Objection. Leading.

20 Please let me -- just to be clear, I may
21 raise objections. I should be raising them
22 before you respond.

23 BY MR. FRANK:

24 Q. Did you believe that the draft of your
25 declaration accurately represented your knowledge?

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1 BY MR. FRANK:

2 Q. Is that an accurate characterization of
3 your prior testimony?

4 A. Yes.

5 Q. What is the Big Smoke event?

6 A. It's an event that's put on by Cigar
7 Aficionado on an annual basis to promote the cigar
8 industry and to raise money for their business.

9 Q. Does it concern anything other than
10 cigars?

11 A. It does. It's -- on a very, very small
12 scale -- well, couple things. On a small scale, it
13 involved, as it progressed through the years, some
14 brown spirits, bourbons, whiskeys, scotches, those
15 types of things. And then, of course, there's a
16 food buffet for people to pay to enjoy.

17 Q. Do cigar consumers attend the Big Smoke
18 event?

19 A. Yes.

20 Q. Do you know approximately what percentage
21 of cigar consumers make up the participants of the
22 Big Smoke event?

23 MR. DEUTSCH: Objection to form. Vague.

24 A. The Big Smoke event I recall being about
25 3,000 people. So it's a very small percentage of

1 total cigar smokers.

2 BY MR. FRANK:

3 Q. But of the 3,000, would the majority be
4 cigar smokers, as opposed to bourbon drinkers or
5 people who are noncigar smokers?

6 MR. DEUTSCH: Objection to form and
7 leading.

8 A. Yes.

9 BY MR. FRANK:

10 Q. And do you know if you have to pay to get
11 into the Big Smoke event?

12 A. Yes, you do.

13 Q. And would you enter -- would you exchange
14 with regular -- would you exchange with cigar
15 smokers during the time of the Big Smoke event?

16 MR. DEUTSCH: Objection. Form.

17 A. When you say -- I'm not sure what you mean
18 by "exchange."

19 BY MR. FRANK:

20 Q. Would you interact with cigar consumers
21 when you attended the Big Smoke events?

22 A. Yes.

23 Q. And in your experience, would the cigar
24 smokers you interacted with be regular cigar
25 smokers?

1 MR. DEUTSCH: Objection. Leading.

2 A. I don't have data that supports that, but,
3 yes, most of the people there were avid cigar
4 smokers.

5 BY MR. FRANK:

6 Q. Do you recall a point earlier today when
7 you had the following exchanges with Mr. Deutsch?
8 Mr. Deutsch asked you:

9 "Is it correct that you can recall one
10 instance when someone who had already smoked a
11 General Cigar Cohiba was surprised to learn it
12 wasn't Cuban?"

13 And you had answered: "Correct."

14 And Mr. Deutsch subsequently asked:

15 "You can't recall any other sufficient
16 conversation of that nature; is that correct?"

17 And you had answered: "Correct."

18 And then subsequently, Mr. Deutsch asked:

19 "I'm asking you now: Is it the case that
20 you can only recall one instance in which a consumer
21 told you that they were surprised to learn that the
22 General Cigar Cohiba cigar they had smoked was not
23 the Cuban Cohiba cigar?"

24 And you had answered: "Correct."

25 Is it fair to say -- do you recall that?

Q. Is it fair to say that putting aside the specific instances that you had identified earlier today, one at Big Smoke and one at Club Nudo, that you do not recall any specific instance in which someone who had already smoked a Royal Cigar Cohiba was surprised to learn it wasn't Cuban? Is that an accurate characterization?

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BY MR. FRANK:

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Q. Mr. Deutsch had asked you whether General Cigar always placed an indication of geographic origin on its Cohiba cigars.

8

Do you recall that exchange?

9

A. I do.

10

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Q. And you had indicated that you were trying to recall about whether or not geographic indication had been included on the boxes of General Cigar's Cohiba cigars.

14

Do you recall that?

15

A. Yes.

16

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Q. Are cigars sold in cigar stores in the United States only sold by the box?

18

A. No.

19

Q. Are they also sold individually?

20

A. Yes.

21

22

Q. Do you know a lot of cigars are sold individually, or are they mainly sold by the boxes?

23

A. In retail stores, mostly individually.

24

25

Q. And when they're sold individually at retail stores, are they generally sold from boxes

1 with the lid of the box up?

2 A. Yes.

3 Q. And do all General Cigar cigars -- strike
4 that.

5 Do all General Cigar Cohiba cigars
6 indicate the country of origin of that cigar on the
7 individual cigar?

8 A. Cohiba cigars were generally -- maybe a
9 hundred percent, I don't recall -- cellophaned, and
10 then they were sealed with a little white sticker.
11 And I believe those stickers had the origin, but I'm
12 not 100 percent sure. I can't recall.

13 Q. You do not recall?

14 A. Well, I recall that they're cellophaned
15 with stickers. I am somewhat confident those
16 stickers had the origin, but I'm not 100 percent
17 sure.

18 Q. And do you know if the General Cigar
19 Cohiba cigars were -- 100 percent of the different
20 types of Cohiba cigars were sold with cellophane on
21 them?

22 MR. DEUTSCH: Objection. Calls for
23 speculation.

24 A. Well, no. Some were sold in tubes, not
25 cellophane. But I believe they were either tubed or

1 Q. Do you recall a point earlier today when
2 Mr. Deutsch had asked you about your statement and
3 declaration that "I do not personally believe that
4 Cuban cigars are the highest quality and best cigars
5 in the world," and you had indicated -- he had asked
6 why you did not believe that.

7 You had indicated that it was based, in
8 part, on feedback from consumers who had purchased
9 Cuban cigars and found inconsistencies in the form
10 of the cigar.

11 Do you recall that exchange?

12 A. I do.

13 Q. Do you know if the cigars that these
14 consumers had consumed were genuine or counterfeit
15 Cuban cigars?

16 A. Do I have -- no. I don't have a way of
17 knowing that.

18 Q. Do you know if there are counterfeit Cuban
19 cigars on the market?

20 A. Many.

21 Q. Do you know if counterfeit Cuban cigars
22 are of lower quality than genuine Cuban cigars?

23 A. Yes.

24 Q. And are they?

25 A. Yes.

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Do you recall -- strike that.

MR. FRANK: I'm done.

MR. DEUTSCH: I have one or two questions,
or maybe three or four.,

REDIRECT EXAMINATION

BY MR. DEUTSCH:

Q. So, Mr. Willner, is it the case that over the lunch break, you looked at emails regarding your communications with Mr. Frank's firm about your declaration?

A. Yes.

Q. And those emails are on your phone that you have here today?

A. Yes.

Q. Okay. Would you please go to the very first of those emails, read the date and what was written in it into the record, please?

A. So you have to clarify. I have a lot of emails here.

Q. The very first -- the very first, chronologically speaking, email that you had with anybody representing Cubatabaco about providing a declaration.

Do you have that on your --

A. Okay. Specifically after the last deposition?

Q. After the last deposition, right.

A. Okay. Let's see. The last deposition was --

1 Q. October 25, 2017.

2 A. Thank you.

3 So it looks like -- the first one I have
4 after October 25, 2017, is 12/12/17.

5 Q. That's December 12, 2017.

6 A. Correct.

7 Q. And who was that email from and who was it
8 to?

9 A. It was from Dominique Thaxton, Planet
10 Depos, LLC.

11 Q. And was that about your deposition or was
12 that about your declaration? Because my question is
13 about your declaration.

14 A. This looks like this was a copy of the
15 deposition transcript.

16 Q. Okay. So my question is slightly
17 different. I'm asking you for the first
18 communication after your deposition with anybody
19 from Cubatabaco's law firm.

20 A. The next chronological email that I have
21 here is on January 5th, 2018, from Lindsey.

22 Q. That's Mr. Frank?

23 A. Mr. Frank.

24 Q. And what does it say?

25 A. "Alan: Happy New Year. Would it be

1 possible to speak on the phone briefly? If so, let
2 me know when is a good time."

3 Q. And did you speak to Mr. Frank as a result
4 of that email?

5 A. I would have to look at my sent mail, but
6 there's another email from Mr. Frank on January 7th
7 saying: "Great. I will call you tomorrow. Is
8 there a time or times that are best for you?"

9 Q. Okay. Did you have a conversation with
10 him on January 8, 2018?

11 A. I have an email here from Lindsey on
12 January 8th saying: "I will try you at 10:30 a.m.
13 It will be quick."

14 Q. Did that conversation happen?

15 A. I don't recall.

16 Q. Do you recall any conversation that
17 happened as a result of that last exchange you
18 testified to?

19 A. Well, if Lindsey's emailing on 1/8 and we
20 had a phone call at 10:30, unless something came up
21 that was pretty urgent and an emergency, I would
22 have been on that phone call.

23 Q. Okay. Do you remember anything about that
24 phone call?

25 A. No.

1 Q. And when is the next email communication
2 that you had with Mr. Frank?

3 A. Well, from Mr. Frank, I received an email
4 on February 5th.

5 Q. And what did that email say?

6 A. It says: "Alan: Just wanted to follow up
7 on this. Can you let me know if you find anything?"

8 Q. Was there an email from you to Mr. Frank
9 that preceded that?

10 A. I would have to look.

11 Q. Would you, please?

12 A. Sure.

13 Okay. So there's an email from me to
14 Mr. Frank on January 6th. It says: "Happy New Year
15 to you, as well. Sure, call me on my cell Monday."

16 Q. Okay. Are there any other emails that
17 precede the email from Mr. Frank that you talked
18 about from February 5th, 2018, either from you to
19 him or him to you?

20 A. Well, on January 7th, I have an email to
21 Mr. Frank that said: "I am assuming this will be
22 quick. I have calls all day long but try any time
23 after 10:00 a.m. If we miss each other, I will call
24 you back."

25 Q. Okay. When Mr. Frank sent you the email

1 on February 5th saying: "Just wanted to follow up
2 on this. Can you let me know if you can find
3 anything?" Do you know what that was referring to?

4 A. I would have to go back and look at this,
5 and it's a little difficult on the phone.

6 I assume -- so this was January 2018.

7 Q. So the particular email which I'm talking
8 about, which you testified to a minute ago, was
9 dated February 5th, 2018, and it was from
10 Mr. Frank to you.

11 A. Okay.

12 Q. And I just read it to you. I'm wondering
13 if you have anything on your email or in your
14 recollection prior to that date that allows us to
15 know what Mr. Frank was talking about when he said
16 "this," "Can you let me know if you can find this?"

17 A. No, I can't find that right now.

18 Q. Okay. What was the next communication
19 after that February 5th email from Mr. Frank to
20 you that you have on your phone regarding your
21 declaration?

22 A. It looks like September 19, 2018.

23 Q. Okay. And what does that say and who is
24 it from and who is it to? What does it say?

25 A. From Mr. Frank to me. It says: "Alan, as

1 you know we represent Cubatabaco. We have drafted
2 the attached declaration based on my telephone
3 conversations with you and your testimony in your
4 deposition on October 25, 2017. Please review
5 carefully to make certain that the statements in the
6 attached declaration are true and correct. Please
7 call me if you have any questions or if you want to
8 make any changes or clarifications. You, of course,
9 are free to make any changes or clarifications. If
10 there are no changes, please date at the bottom,
11 sign, scan, and return to me by email. As we
12 discussed, Cubatabaco intends to submit this
13 declaration during its trial testimony period as
14 your direct testimony in this proceeding in lieu of
15 an oral trial examination. Sincerely, Lindsey
16 Frank."

17 Q. Do you have anything on your phone between
18 you and Mr. Frank from February 5, 2018, and
19 September 19, 2018?

20 A. I don't.

21 Q. Okay. Do you recall any conversation with
22 Mr. Frank between February 5, 2018, and
23 September 19, 2018?

24 A. No, sir.

25 Q. When you received the September 19, 2018,

1 email that you've just read into the record, did you
2 know that Mr. Frank was going to send you a draft of
3 a declaration to be submitted in this proceeding?

4 A. I can't find anything from February 5th
5 until 9/18. I have -- I sent Lindsey an email on
6 September 12th. I think that's the first one after
7 my 2/5 email to him.

8 Q. And what's the September 12th one say?

9 A. It says: "Lindsey: I'm in the Bahamas.
10 Can we talk Friday? Thanks, Alan."

11 Q. Do you know if that call -- I'm sorry,
12 that email was prompted by a communication from
13 Mr. Frank to you?

14 A. Mr. Frank sent me an email the same day:
15 "Alan, I just wanted to try to arrange a time for us
16 to speak briefly on the phone. When would be a good
17 time for you?"

18 Q. And was your email a response to that?

19 A. Yes.

20 Q. Okay. And do you recall any other
21 communications between you and Mr. Frank between
22 February 5, 2018, and the email you just read from
23 Mr. Frank?

24 Just for the record what's the date of
25 that email from Mr. Frank you just read?

1 A. That's the same day. That's September 12,
2 2018.

3 Q. Okay. Do you recall any conversation with
4 Mr. Frank between February 5th, 2018, and
5 September 12, 2018?

6 A. Not from emails, I can't see any
7 conversation.

8 Q. And do you recall anything other than from
9 your emails, just from memory, about having had a
10 conversation with Mr. Frank during that time?

11 A. I don't recall conversation between the, I
12 guess, February and the September time period.

13 Q. Okay. And you said earlier, when I asked
14 you, that Mr. Frank sent you an email with a draft
15 declaration attached?

16 A. Yes.

17 Q. And what's the date of that?

18 MR. FRANK: Objection. Asked and
19 answered.

20 A. That's the email on 9/19.

21 BY MR. DEUTSCH:

22 Q. So that's September 19, 2018, correct?

23 A. Correct.

24 Q. And is there a PDF there or a Word
25 document?

1 A. There's a Word document.

2 Q. Okay.

3 MR. DEUTSCH: I'm going to direct this to
4 counsel for Petitioner. I would like you to
5 produce this. I'd rather not inconvenience the
6 witness and ask him to produce it, but if you
7 want me to, I will. It's certainly in
8 evidence.

9 Will you produce it?

10 MR. FRANK: Yes.

11 MR. DEUTSCH: Okay. And we will deem that
12 marked as our next exhibit number, and we'll
13 affix the label to it when we get the document.

14 (Discussion off the record.)

15 MR. DEUTSCH: So that draft declaration
16 will be marked as Respondent's Exhibit 40.

17 (Thereupon, marked as Respondent's
18 Exhibit 40.)

19 BY MR. DEUTSCH:

20 Q. Okay. After that September 19th email,
21 when was the next email that you had between
22 yourself and Mr. Frank regarding your declaration?

23 A. I'll have to go back in sent mail.

24 Q. Okay.

25 A. But before I do that, Lindsey said, "Thank

1 you, Alan. I have implemented all your changes in
2 the attached document." That was dated
3 September 26, 2018, from Mr. Frank to me.

4 Q. Okay.

5 A. And I'll go back to sent.

6 MR. FRANK: I'll say we will produce that
7 email and the attachment without waiving any
8 objections to not introducing other material.

9 MR. DEUTSCH: Okay.

10 A. Looks like on September 26, 2018, I sent
11 an email to Mr. Frank, said, "Hi, Lindsey. As you
12 requested," and I have an attached document. I
13 don't know what it is because I -- I'm assuming it's
14 my declaration.

15 BY MR. DEUTSCH:

16 Q. Do you know if your -- if that's your
17 declaration with the changes you made?

18 A. I'll tell you.

19 Q. Okay. Please.

20 A. Yeah, it's not showing the tracked changes
21 on this particular --

22 Q. It doesn't?

23 A. Yeah. So I can't answer that.

24 MR. DEUTSCH: Okay. Well, I will ask
25 counsel for Petitioner to provide us with a

1 copy of the document sent by Mr. Willner to him
2 showing the tracked changes. And if he will do
3 so, we will mark that as Respondent's 41.

4 (Thereupon, marked as Respondent's
5 Exhibit 41.)

6 MR. FRANK: I believe so. I will take
7 that under advisement.

8 MR. DEUTSCH: Tell me if you find a
9 privilege that applies to Mr. Frank --

10 MR. FRANK: Yeah.

11 MR. DEUTSCH: -- with a nonparty witness.

12 MR. FRANK: Yes --

13 MR. DEUTSCH: Okay.

14 MR. FRANK: -- I understand.

15 BY MR. DEUTSCH:

16 Q. Okay. Mr. Willner, after you sent that
17 back to Mr. Frank, what was the next communication
18 between you and Mr. Frank regarding your
19 declaration?

20 A. It looks like -- and I'll have to go back
21 in regular mail; this is sent mail -- there's an
22 email on September 26 from Mr. Frank to me.

23 Do you want me to read it?

24 Q. Yes, please.

25 A. It says: "Thank you, Alan. I have

1 implemented all of your changes in the attached
2 document. The only changes I made were minor
3 grammatical changes and elimination of your
4 parenthetical statement in paragraph 10, which
5 appeared to be a message to me. Can you please date
6 and sign and email a scanned version of the entire
7 document back to me?

8 "I am also attaching for your convenience
9 a redlined version of the declaration, which
10 indicates in redline the differences between the
11 version you sent me earlier today and the attached
12 declaration. Please don't hesitate to contact me
13 with any questions. Thank you. Kind regards,
14 Lindsey."

15 Which I responded --

16 Q. Let me just stop you for a second.

17 Is there an attached document to that
18 email?

19 A. The email that Mr. Frank sent to me on
20 9/26 had an attached document.

21 MR. DEUTSCH: Okay. We would ask counsel
22 for the Petitioner to produce a copy of that
23 document, and it will be marked as Respondent's
24 42.

25 (Thereupon, marked as Respondent's

1 Exhibit 42.)

2 MR. FRANK: We'll take it under
3 advisement.

4 BY MR. DEUTSCH:

5 Q. Okay. Could you keep going, Mr. Willner,
6 in regards to any communications between you and
7 Mr. Frank after that.

8 A. So after that, on the next day --

9 Q. Uh-huh.

10 A. -- I respond to this, and I said, "I'll
11 get back to you today or tomorrow at the latest."

12 Q. Okay. What was the next communication
13 after that?

14 A. It looks like the next day, which is
15 September 28, 2018, I sent Mr. Frank a note and it
16 said: "I made one clarification in Section 45 that
17 is highlighted."

18 Q. Okay. And was there a document attached
19 to that email?

20 A. Yes.

21 MR. DEUTSCH: Okay. We'd ask that counsel
22 for Petitioner produce that document, and we
23 will have it marked as Respondent's 43.

24 (Thereupon, marked as Respondent's
25 Exhibit 43.)

1 BY MR. DEUTSCH:

2 Q. Okay. Were there any further
3 communications between you and Mr. Frank?

4 A. On September 28th, Mr. Frank said, "Okay.
5 Can you please just remove the highlighting before
6 dating, signing, and returning to my email."

7 Q. Was there an attached document to that
8 email?

9 A. I don't believe so.

10 Q. Okay. What was the next communication
11 from you to Mr. Frank?

12 A. On the same date, I said, "Yep."

13 Q. And that was it?

14 A. (Nodding head).

15 Q. Were there any further communications
16 between you and Mr. Frank?

17 A. I would have to go back to the in mail.

18 In the sent mail, on October 2, 2018,
19 Mr. Frank wrote, "Alan, I just wanted to follow up
20 on my email from Sunday night (below), and I'm also
21 attaching a version of the same document with
22 today's date. Please let me know if you have any
23 questions. Hope you are well. Best regards,
24 Lindsey."

25 Q. And was there an attached document to that

1 email?

2 A. No.

3 Q. Okay. So the email makes a reference to
4 an attachment, but you find no attachment?

5 A. That's the way it looks to me.

6 MR. DEUTSCH: Okay. I'm going to ask
7 counsel for Petitioner that if there is, in
8 fact, in the email that he sent to the witness
9 on October 2, 2018, if there was an attachment,
10 we would ask that that be produced, and we
11 would mark it as Respondent's 44.

12 (Thereupon, marked as Respondent's
13 Exhibit 44.)

14 BY MR. DEUTSCH:

15 Q. Okay. Were there any further
16 communications either from you to Mr. Frank or
17 Mr. Frank to you?

18 A. October 3rd, I sent an email: "My printer
19 is not working properly. Please overnight the
20 document to me and I will get back to you via PDF."

21 Q. Okay. Any further communications?

22 A. Okay. Then in my sent box, which I'm in
23 now, it jumps all the way to September 30, 2019.

24 Q. So there are no further communications
25 between you and Mr. Frank prior to the date of your

1 signed declaration, which is October 4, 2018; is
2 that correct?

3 A. Well, let me look in the regular box, not
4 the sent.

5 But, yeah, like I said, I had
6 conversation -- I sent a reply to Mr. Frank on 10/2.
7 The next message in my sent box was responding to
8 something on 10/7.

9 Let me look in the in box.

10 (Discussion off the record.)

11 A. I had an email on October 7, 2019.

12 BY MR. DEUTSCH:

13 Q. And who was that from or to?

14 A. From Mr. Frank to me: "Alan, let me know
15 when would be a good time to speak. It should not
16 take that long."

17 MR. FRANK: 2019.

18 MR. DEUTSCH: That's 2019 now.

19 A. '19, yeah.

20 BY MR. DEUTSCH:

21 Q. And so that is the only communication you
22 have on your -- I'm sorry.

23 That is the first communication you have
24 on your email with Mr. Frank, sorry, since the date
25 of your declaration, which was October 4th, correct,

1 2018?

2 A. I'll check here.

3 Yeah, the first was on 10/2/19.

4 Q. Okay. So just going back to your -- the
5 list of emails that you read me, the very first
6 email between -- after February 5, 2018, was
7 September 12, 2018, from Mr. Frank; is that correct?

8 A. All right. So am I -- I'm going back and
9 forth.

10 Q. Well, we're just -- I just -- I'm just
11 nailing down one point.

12 A. Okay.

13 Q. So September 12 -- on September 12, you
14 sent an email to Mr. Frank saying, "Lindsey, I'm in
15 the Bahamas. Can we talk Friday?"

16 And that's September 12, 2018, correct?

17 A. I'm looking right now.

18 September 12, 2018, yes.

19 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

1 Q. Okay. Few more questions.

2 You were asked a few questions on redirect
3 by Mr. Frank about the Big Smoke event.

4 Is this an annual event that Cigar
5 Aficionado held?

6 A. Yes.

7 Q. And was it held every year that you were
8 working for General Cigar?

9 A. I think so.

10 Q. And you say that -- is this the biggest of
11 cigar events that happened over the course of a year
12 that are consumer involving?

13 MR. FRANK: Objection.

14 A. Yes, I think so.

15 BY MR. DEUTSCH:

16 Q. And it's correct you testified that maybe
17 3,000 consumers attend these?

18 A. That's what I recollect.

19 Q. Okay. And of those 3,000 people at each
20 of the Big Smoke events that you attended over your
21 five and a half years, how many people come up to
22 you and said anything to indicate they were confused
23 about the origin of the General Cigar Cohiba?

24 A. That I can recall, one.

25 Q. Okay. Mr. Frank asked you about the way

1 in which General Cigar Cohiba cigars are sold, and
2 you said that some of the cigars are sold in a tube;
3 is that correct?

4 A. Correct.

5 Q. Do the tubes have -- when you were working
6 for General Cigar, did the tubes have a geographical
7 origin on them?

8 A. I believe the tubes may have had the
9 origin printed on them.

10 Q. Okay. Have you ever smelt a counterfeit
11 Cuban cigar?

12 A. Yes.

13 Q. And did you know it was counterfeit at the
14 time?

15 A. No.

16 Q. Okay. How did you learn subsequently it
17 was a counterfeit?

18 A. Well, I wasn't in the business and I was
19 at a gas station and I paid \$6 for it and it was
20 horrible.

21 And subsequently, as I got into the
22 business, being more knowledgeable, I knew it was a
23 counterfeit.

24 Q. So you talked to some friend -- you
25 testified you talked to some friends who said they

1 were dissatisfied with the consistency of Cuban
2 cigars they were smoking, correct?

3 MR. FRANK: Objection.

4 A. Yes.

5 MR. FRANK: Mischaracterization.

6 BY MR. DEUTSCH:

7 Q. Were these friends who were able to buy
8 Cuban cigars outside of the United States?

9 MR. FRANK: Objection. Speculation.

10 A. I don't know.

11 BY MR. DEUTSCH:

12 Q. You don't know where they got the cigars?

13 A. No.

14 MR. FRANK: Objection.

15 BY MR. DEUTSCH:

16 Q. Do you know if they were counterfeit
17 cigars?

18 A. I assume they weren't, but I don't know
19 for sure.

20 Q. You assume they were?

21 A. Well, I assume they were not
22 counterfeit --

23 MR. FRANK: Objection.

24 A. -- but I did not know for sure.

25

Q. Okay. Did your friends ever tell you how they acquired the Cuban cigars for which they were dissatisfied?

Q. Okay. So you don't know one way or the other?

Q. Mr. Frank asked you about a statement on page 234, I believe. Give me just a second. Well, I'll withdraw that. Give me just a second to read the exact exchange.

[illegible]

5

5



24 A. I don't know how long I worked on it for.

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1 between you and Mr. Frank of different drafts,
2 correct?

3 A. Correct.

4 Q. You had the opportunity to correct drafts,
5 correct?

6 A. Yes.

7 Q. Whereas at your deposition, you were
8 having to answer questions on the fly, correct?

9 A. Correct.

10 Q. So you gave some thought to the facts and
11 your recollection of the facts before you signed
12 your declaration, correct?

13 A. Yes.

14 Q. And as far as you're concerned, you stated
15 all the facts that are relevant to conversations
16 with Mr. Murphy regarding consumer confusion about
17 the Cohiba in your declaration, correct?

18 A. What's in my declaration I stand by.

19 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

1

2

3

4

5

6

Q. Okay. And you didn't recall them when you prepared your declaration.

7

8

A. This is the one instance that I do recall.

9

10

MR. DEUTSCH: Okay. That's all my questions. Thank you very much. Appreciate your time.

11

12

THE WITNESS: You're welcome. Safe trip back.

13

14

MR. DEUTSCH: You too.

15

16

MR. FRANK: Oh, can I ask just one clarification question? It's just about the Big Smoke.

17

18

RECROSS EXAMINATION

19

BY MR. FRANK:

20

Q. You testified that at the Big Smoke event, there are 3,000 people who attend; is that correct?

21

22

A. To the --

23

Q. Approximately.

24

25

A. Yeah, I think I said to the best of my recollection. I don't know for sure.

1 Q. Of those 3,000, are those 3,000 consumers
2 or do they also include retailers and other people
3 in the cigar industry?

4 A. They also include other people interested
5 in cigars.

6 Q. And do you know how many of the
7 approximately 3,000 were cigar consumers?

8 A. I don't know, but my instinct tells me a
9 majority.

10 Q. And do you know how many -- approximately
11 how many interactions you would have with cigar
12 consumers at any one Big Smoke event?

13 A. How many I would have? Me personally
14 or --

15 Q. Strike that.

16 Do you know how many interactions you,
17 personally, would have with cigar consumers
18 concerning General Cigar's Cohiba cigar?

19 A. Hundreds.

20 Wait. Strike that. Regarding Cohiba
21 cigars?

22 Q. Correct.

23 A. It depends. I first only heard "cigars,"
24 which is why I said what I said.

25 It's a little bit like -- we used to call

1 it trick or treat for adults, where they go from
2 manufacturer to manufacturer and you put a cigar in
3 their bag. So there's hundreds of people walking
4 by. Some are more conversational than others. The
5 conversations are always very quick and we just got
6 to get them through the line. But, you know,
7 personally, you touch base with, engage with in one
8 way or another, hundreds of people.

9 Where we gave out Cohiba, it would have
10 been a lot of people. Where we -- we didn't always
11 give out Cohiba. In that case, it would probably be
12 zero.

13 MR. FRANK: I'm done.

14 THE WITNESS: Okay.

15 MR. DEUTSCH: We're all done. Again,
16 thank you.

17 MR. FRANK: Very good. Thank you,
18 Mr. Willner.

19 (The proceedings concluded at 2:39 p.m.)

20 _____
21 ALAN WILLNER

22 Subscribed and sworn to before me this
23 _____ day of _____, 2019.

24 _____
25 NOTARY PUBLIC

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF BROWARD

I, the undersigned authority, certify
that ALAN WILLNER personally appeared before me
and was duly sworn on the 13th day of December,
2019.

Signed this 17th day of December, 2019.



KIMBERLY FONTALVO, RPR, CLR

Notary Public, State of Florida

My Commission No. GG 358422

Expires: 7/24/2023

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF BROWARD

I, KIMBERLY FONTALVO, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing testimony of ALAN WILLNER; and that the transcript is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of December, 2019.



KIMBERLY FONTALVO, RPR, CLR

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

----- X
EMPRESA CUBANA DEL TABACO, d.b.a.
CUBATABACO,

Petitioner,

v.

GENERAL CIGAR CO., INC. and CULBRO
CORP.

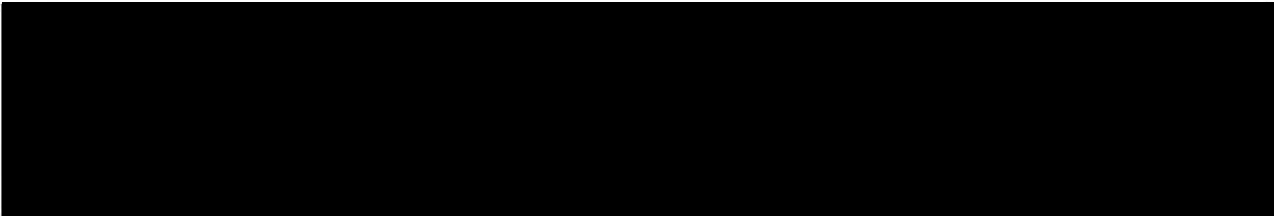
Respondents.
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Cancellation No. 92025859

DECLARATION OF ALAN S. WILLNER

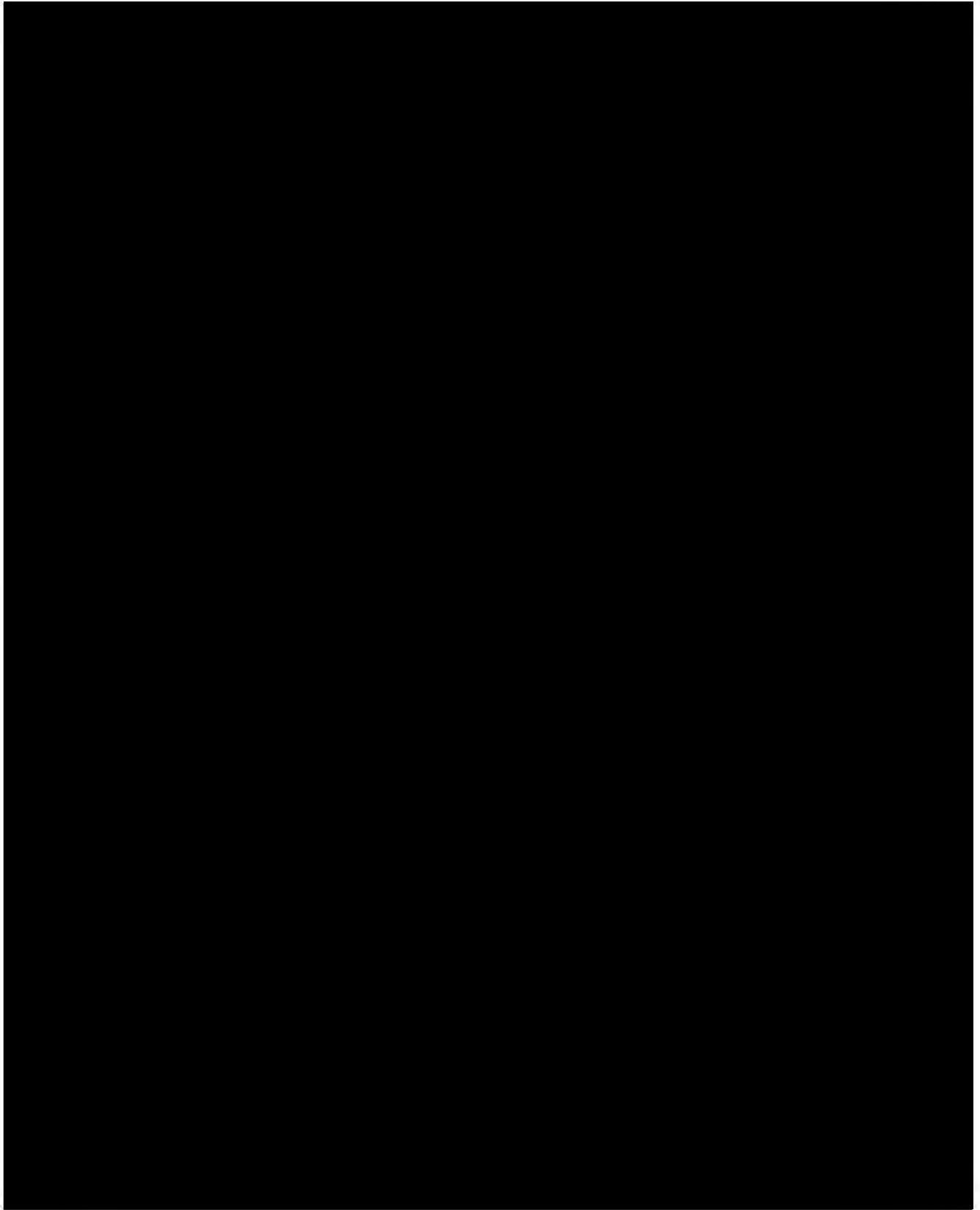
ALAN S. WILLNER declares under penalty of perjury under the laws of the United
States of America that the following is true and correct:

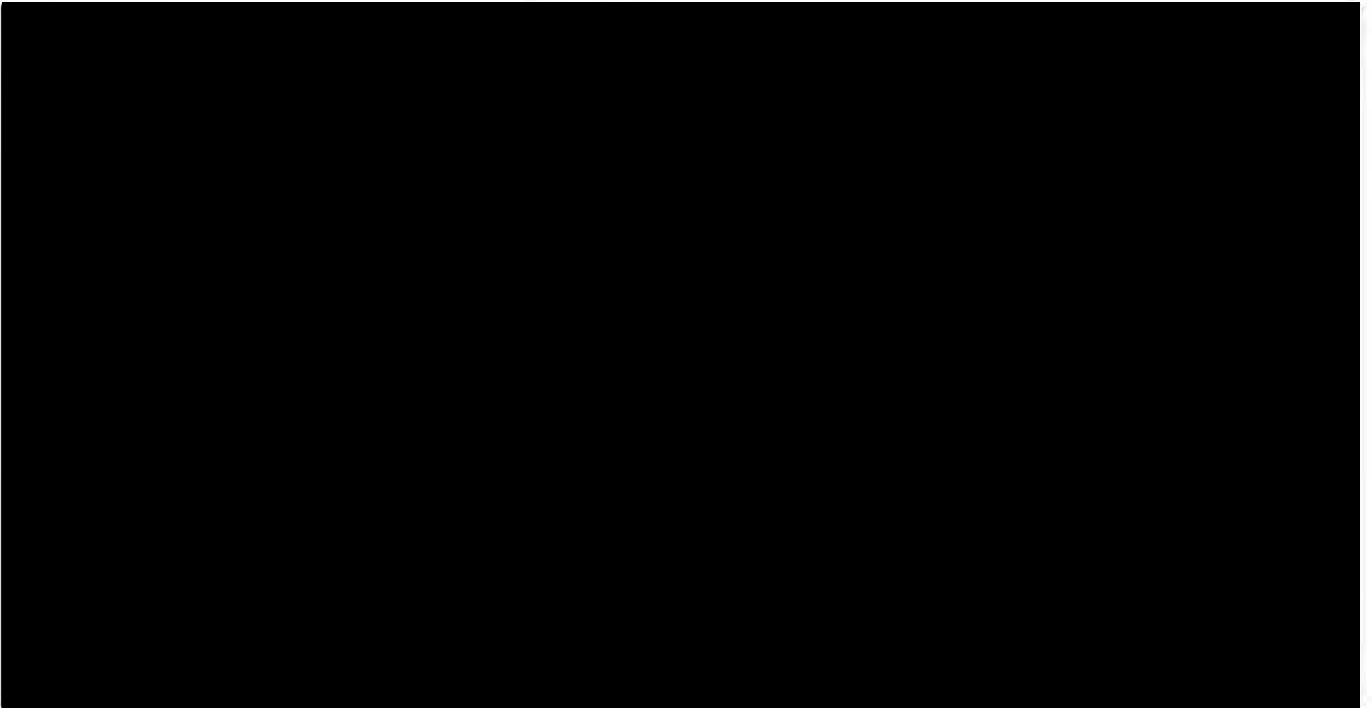
1. Between August 2011 and November 2016, I held the position of Vice President
of Marketing at General Cigar Co., Inc. and, from November 2015 to February 2016, I served as
General Cigar's Interim President, in addition to my role as Vice President of Marketing. When
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my position as Vice President of Marketing until November 2016.



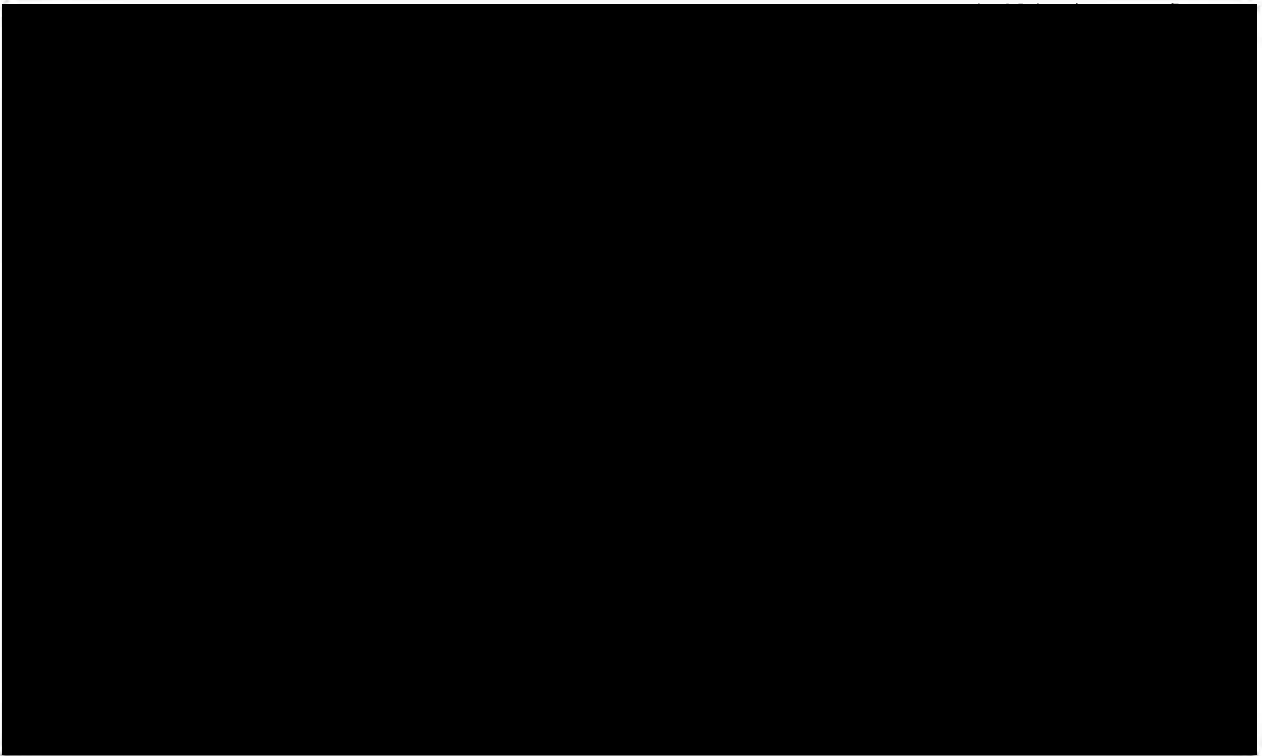
RESPONDENT'S EXHIBIT 38
Cancellation No. 92025859
Empresa Cubana del Tabaco, d.b.a. Cubatabaco
v.
General Cigar Co., Inc. et al.

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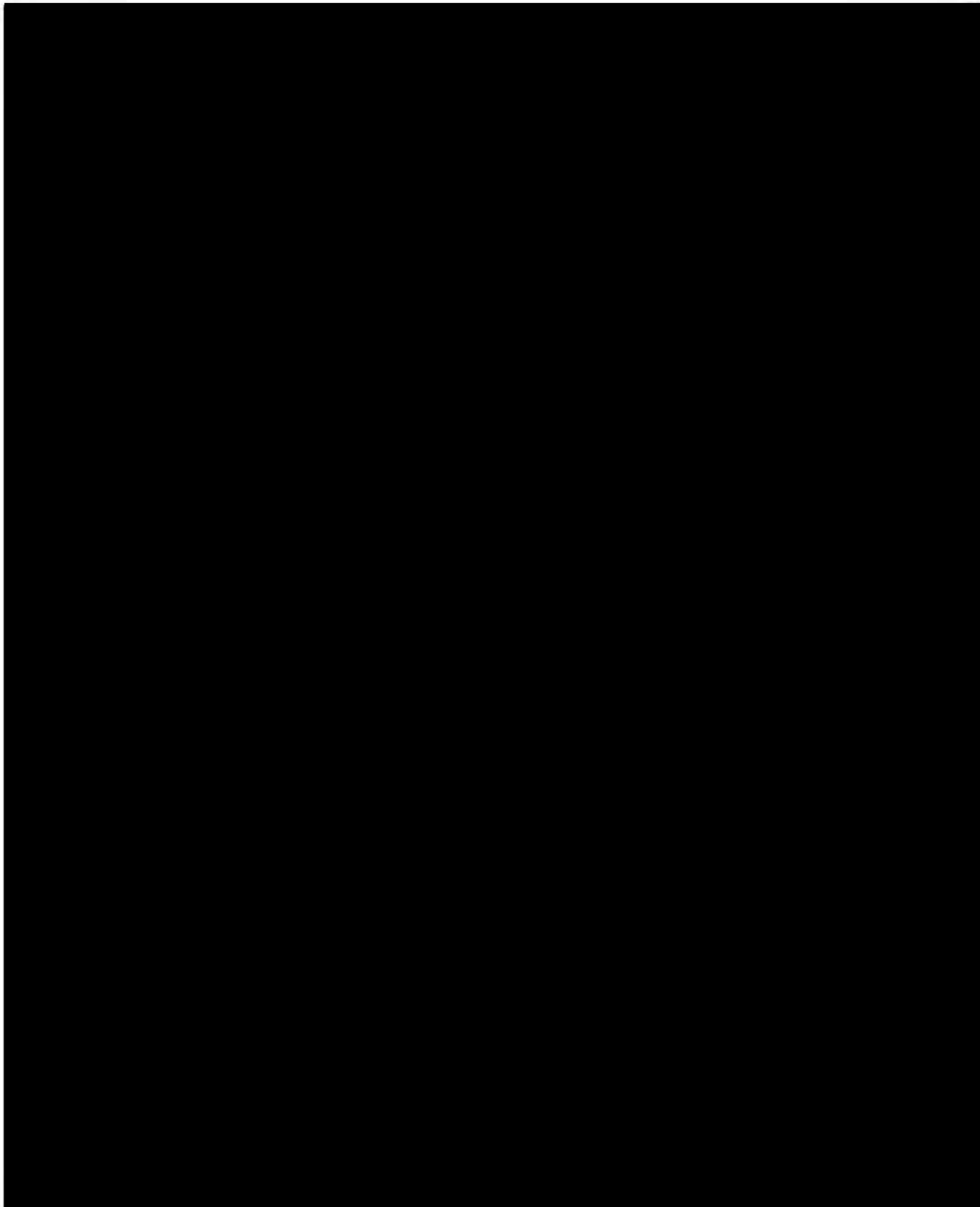




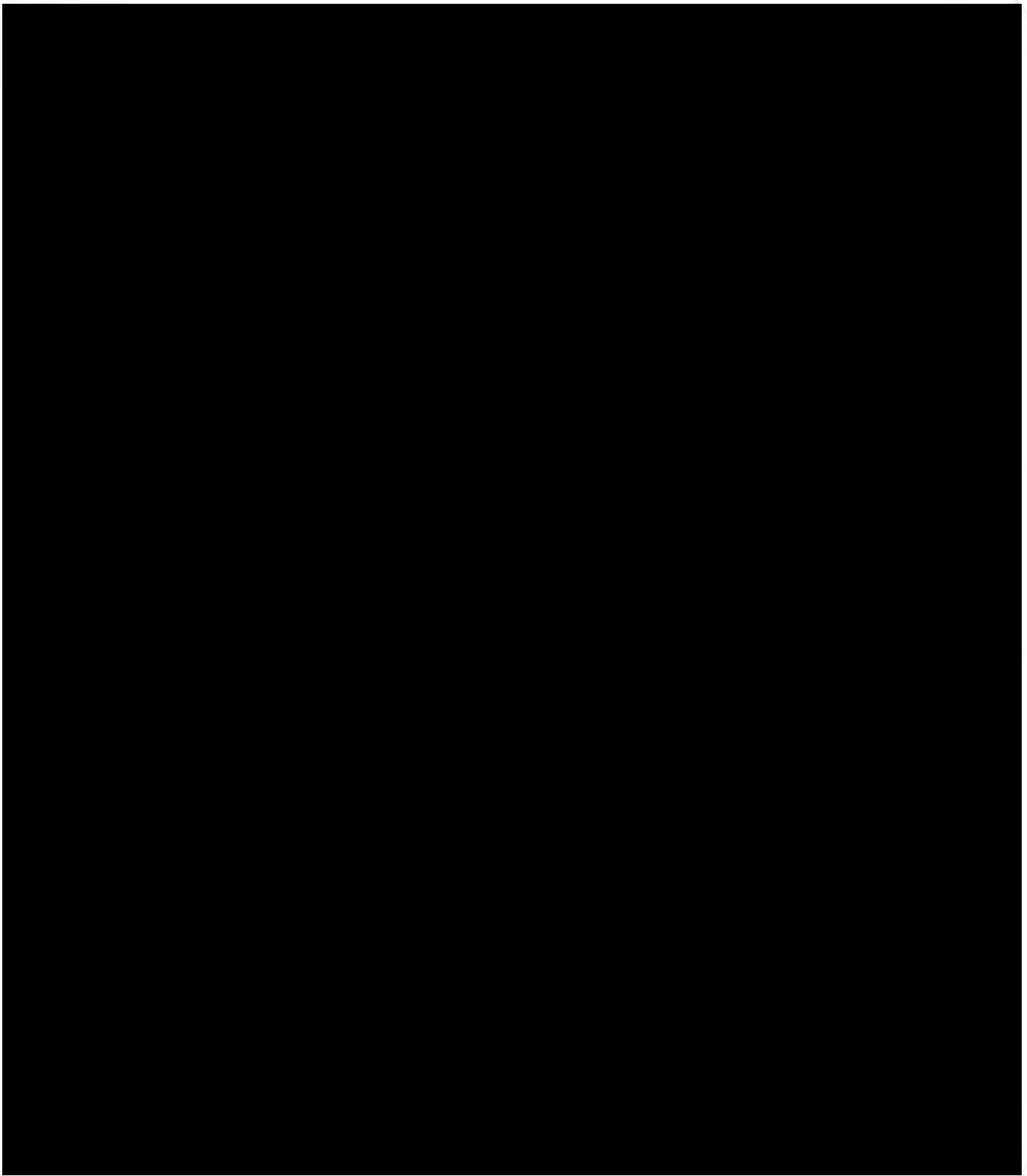
7. I provide more details concerning my professional and educational background below.



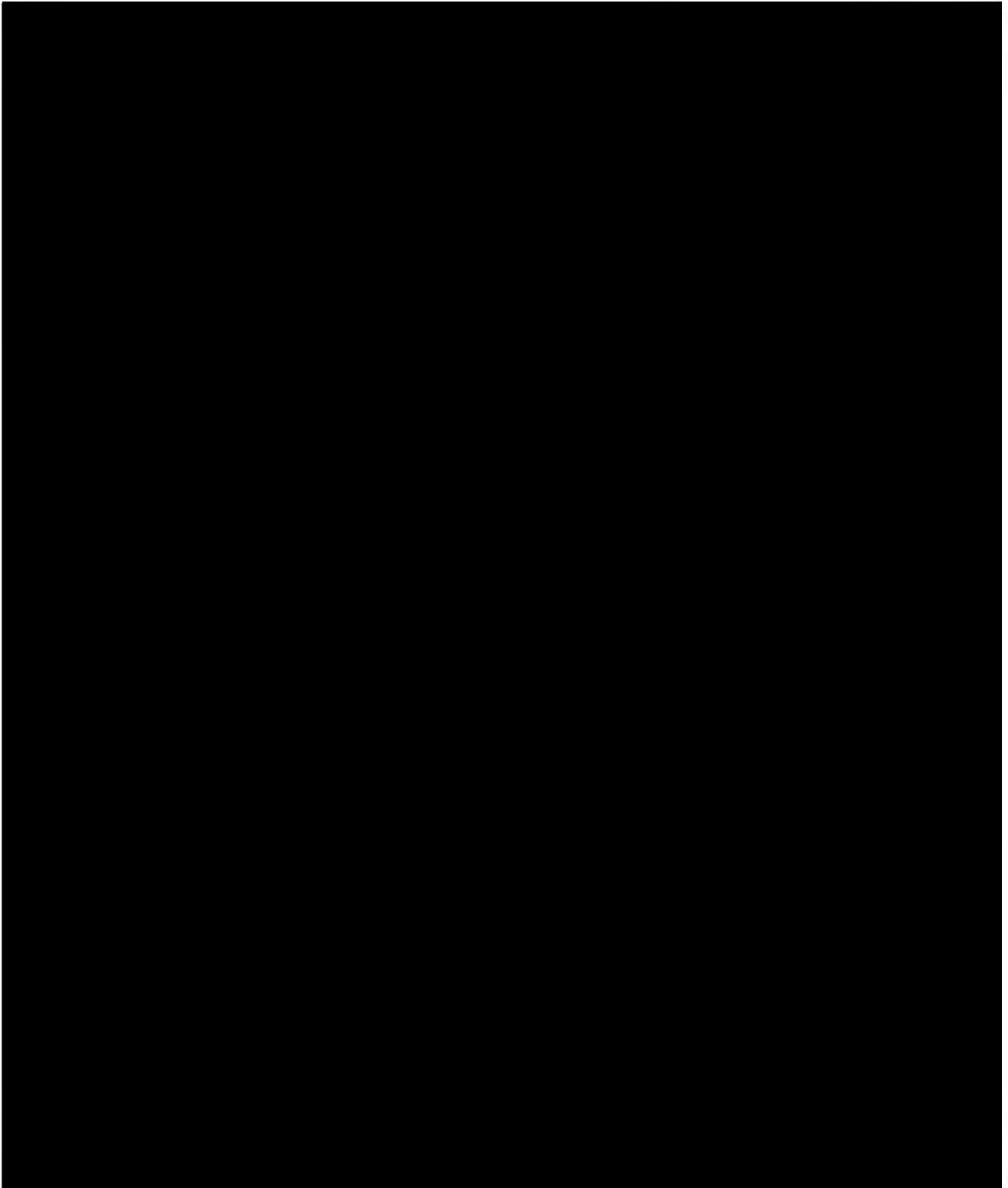
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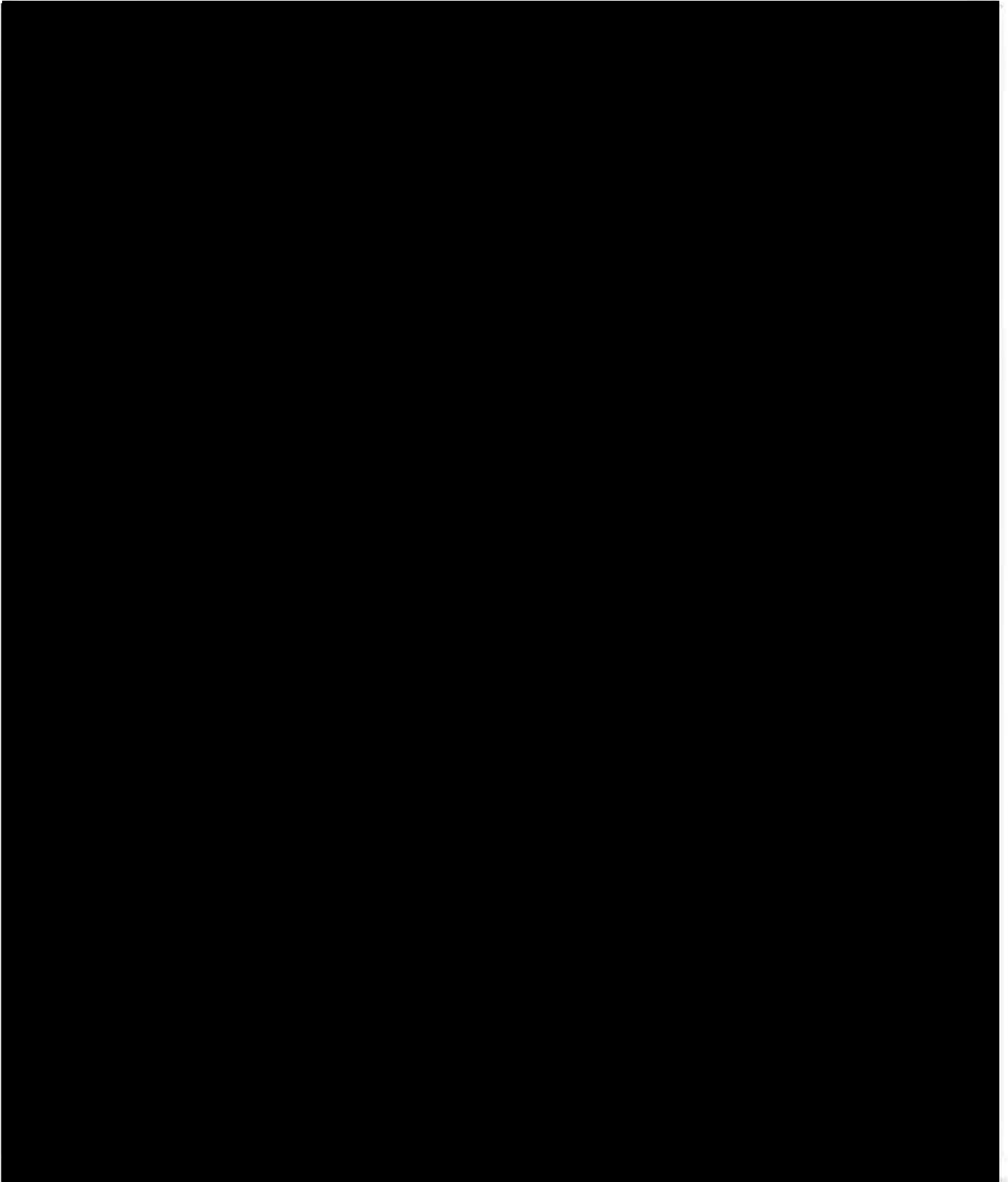
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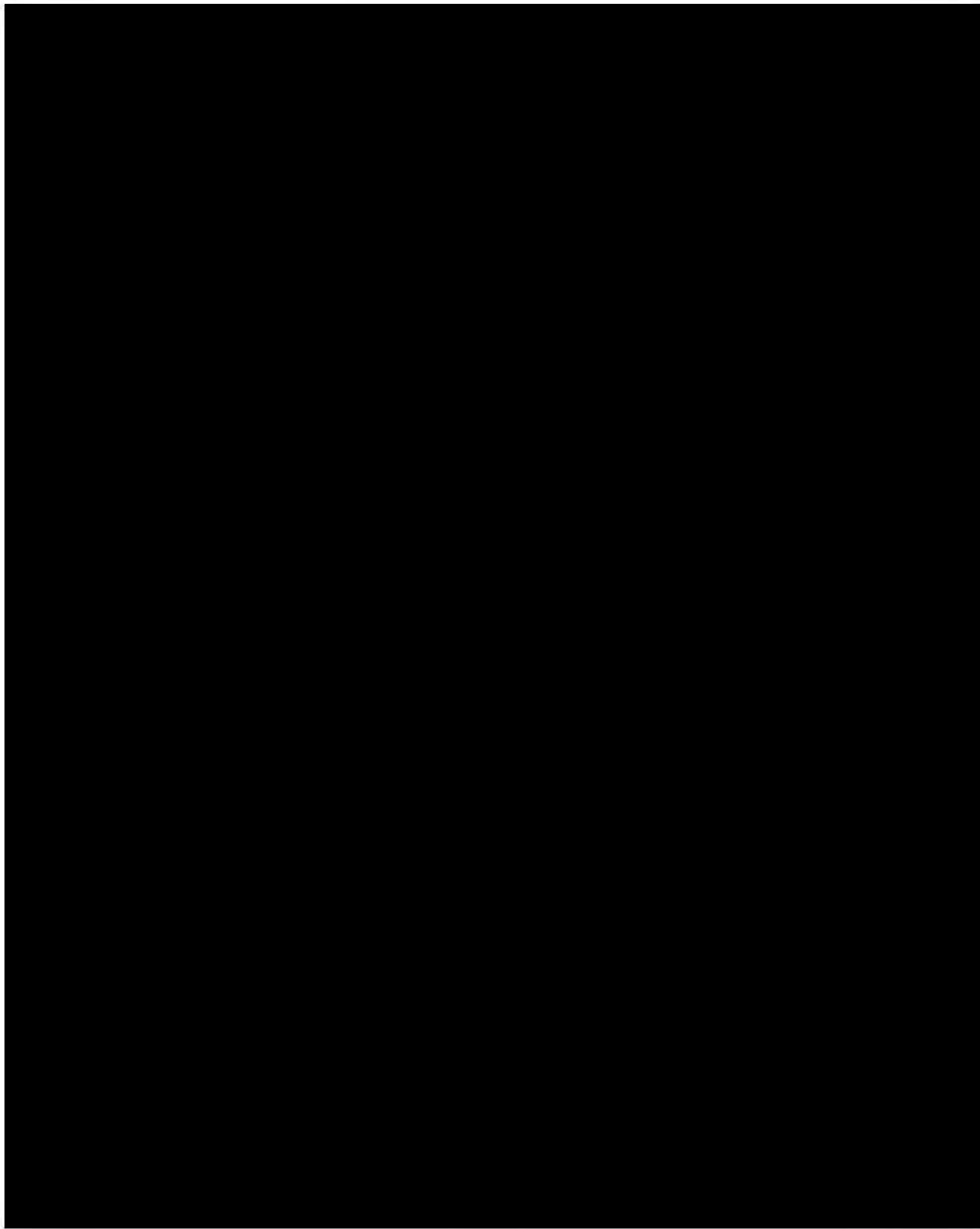
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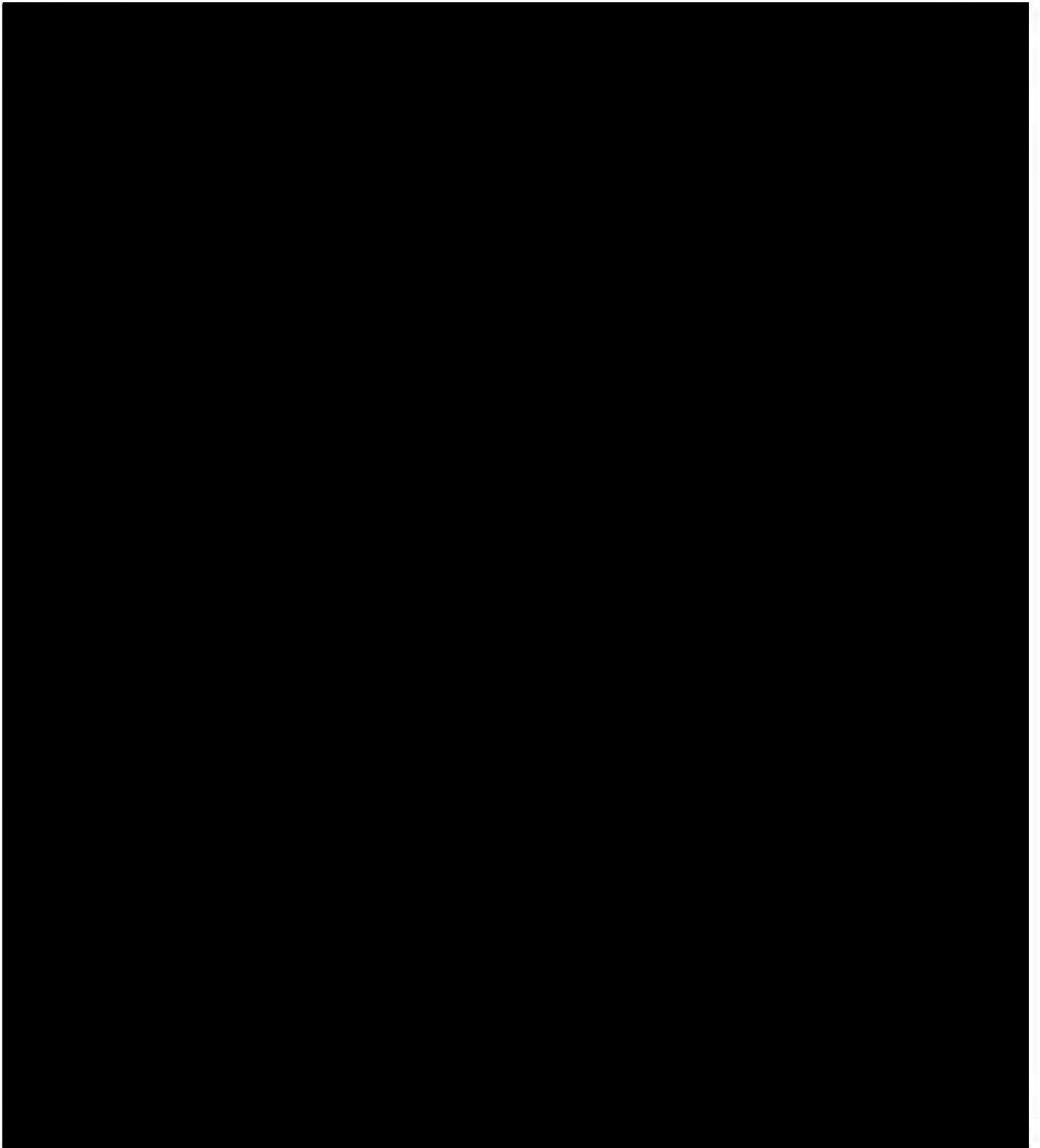
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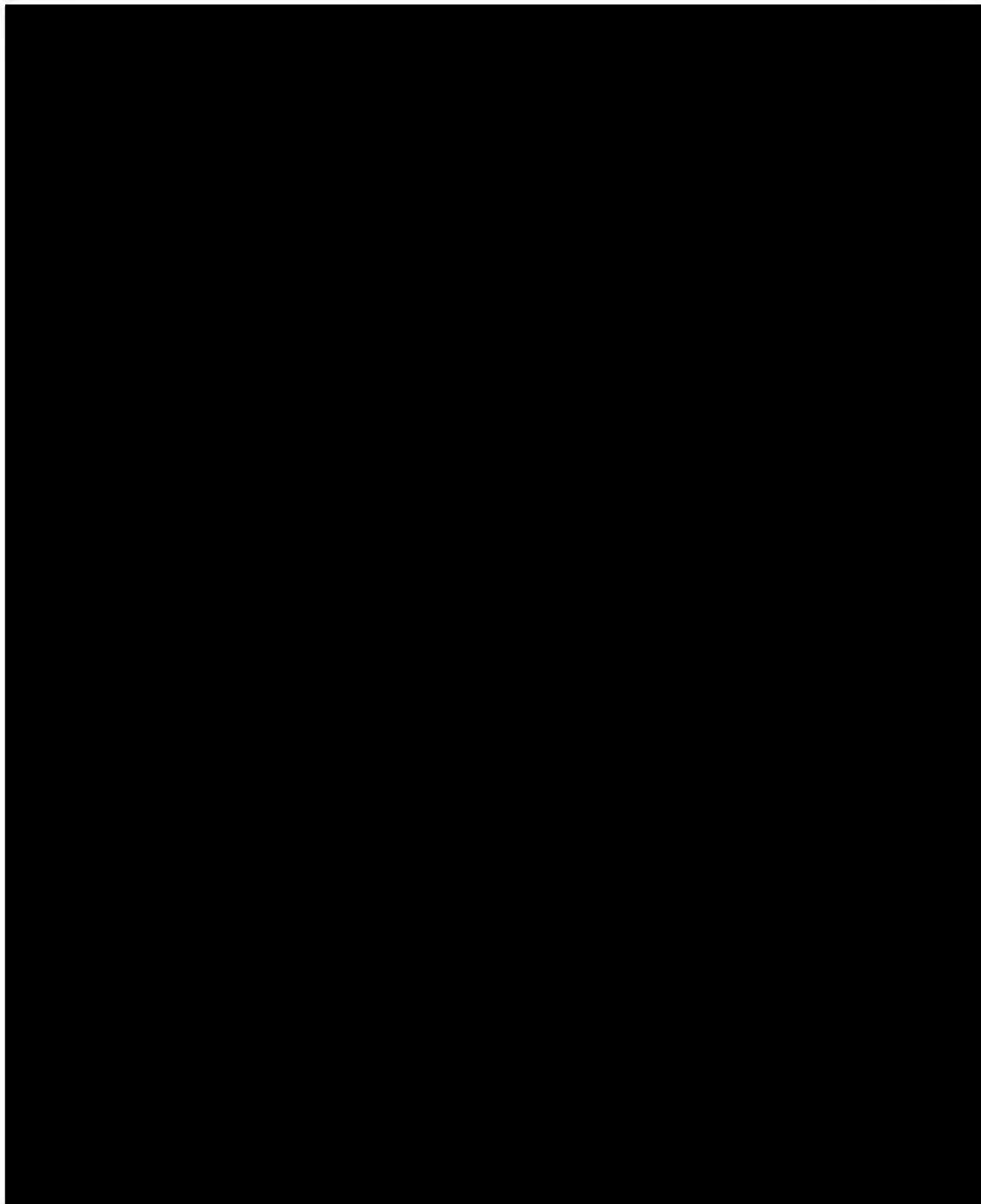
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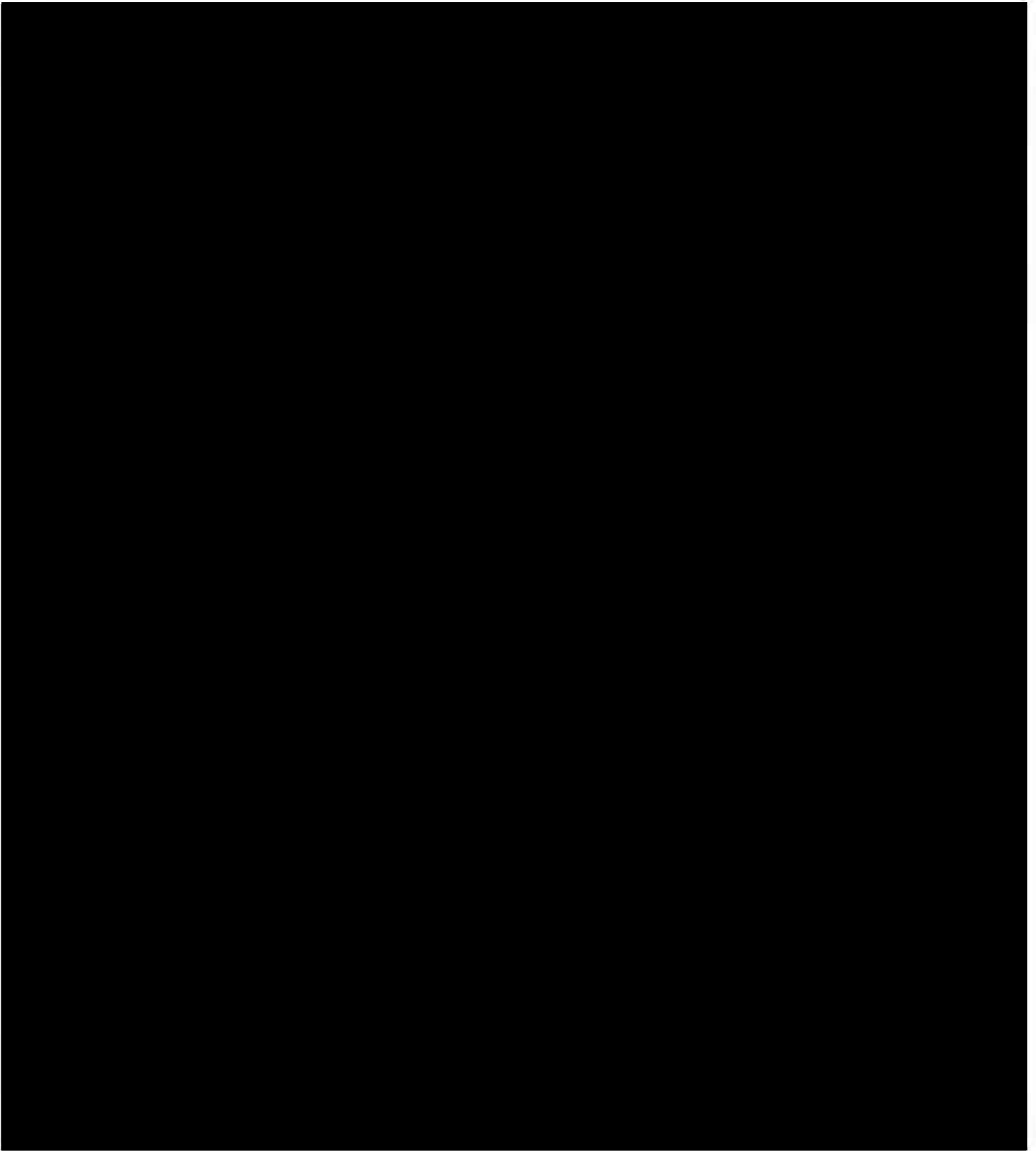
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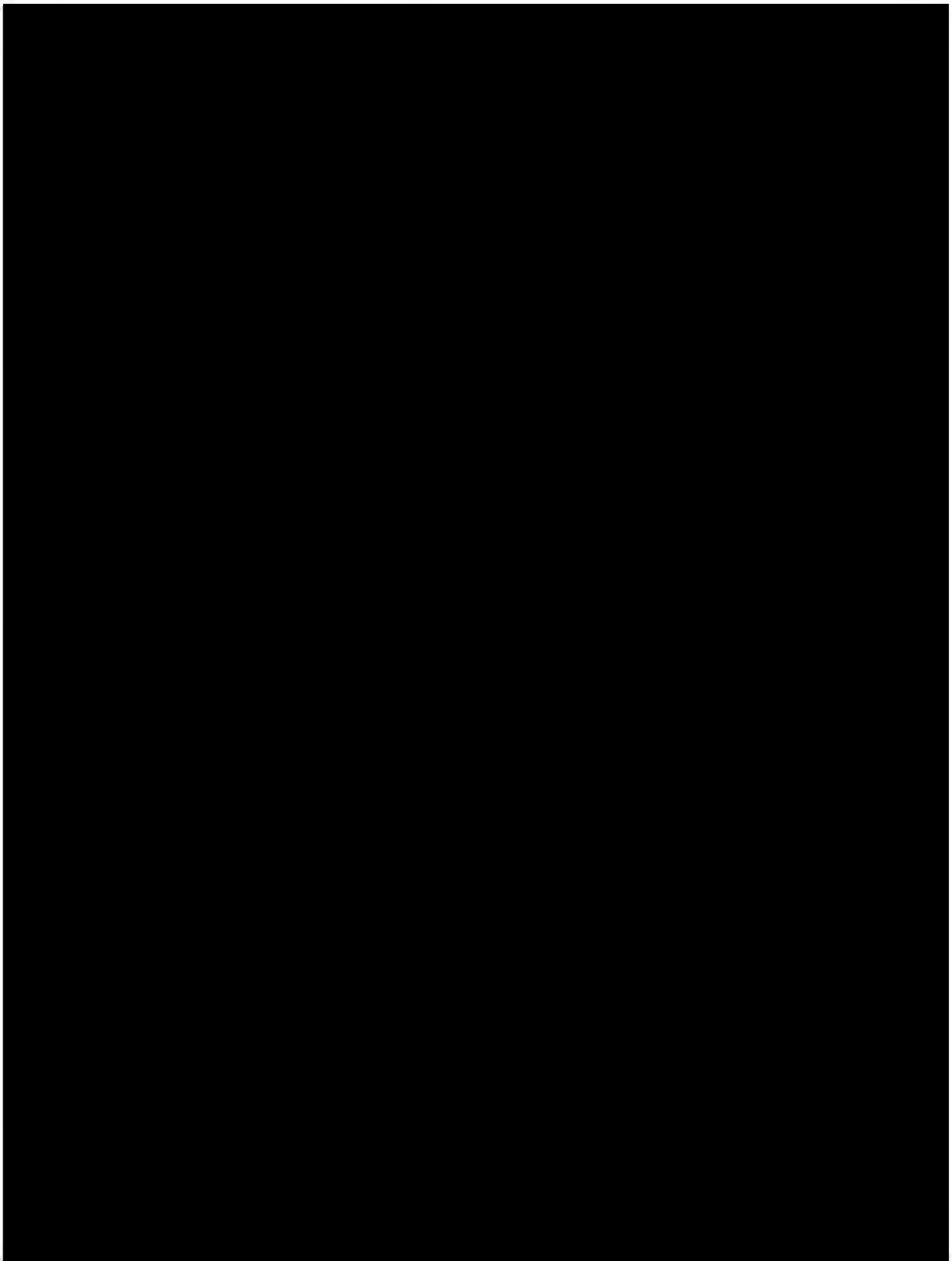
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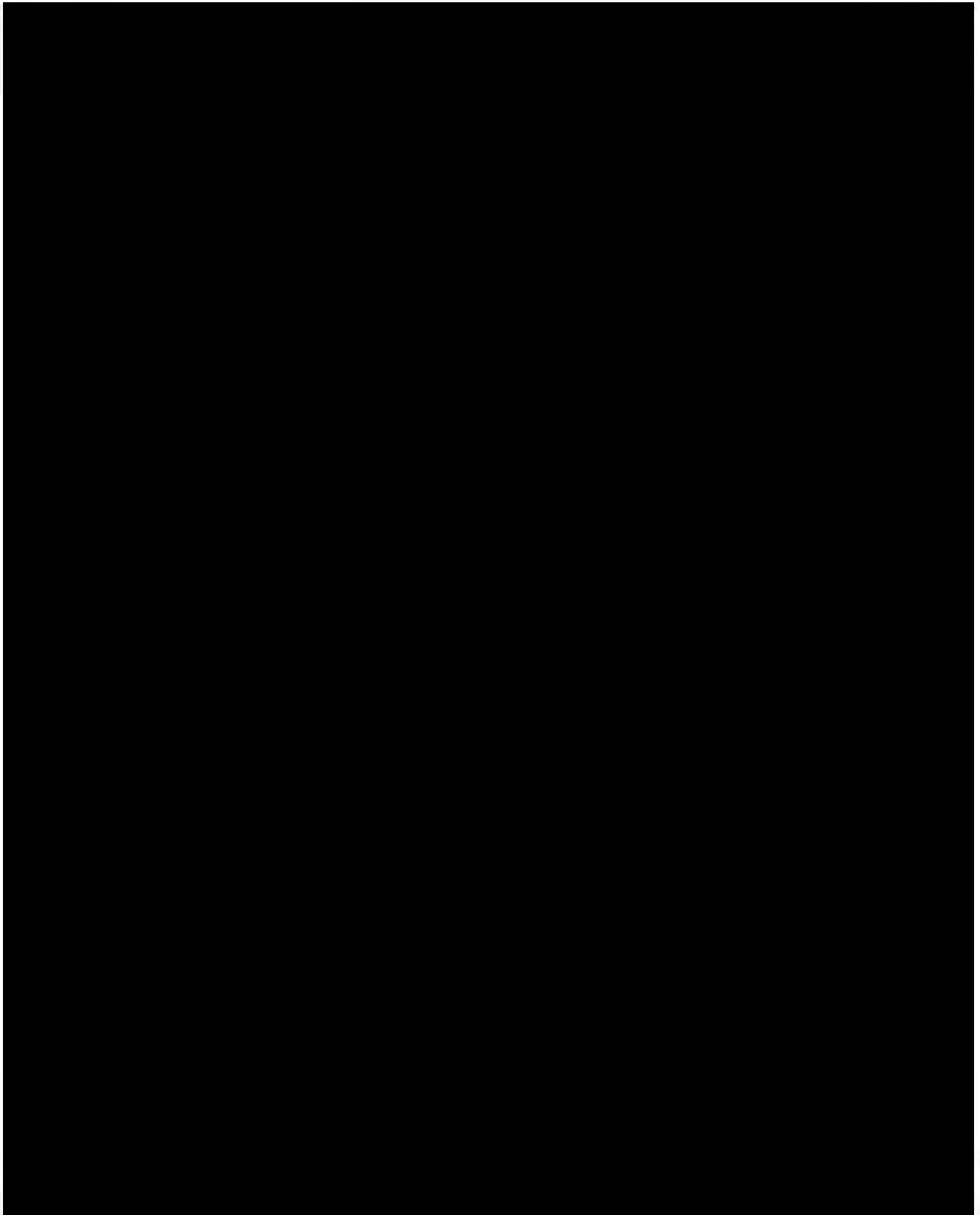
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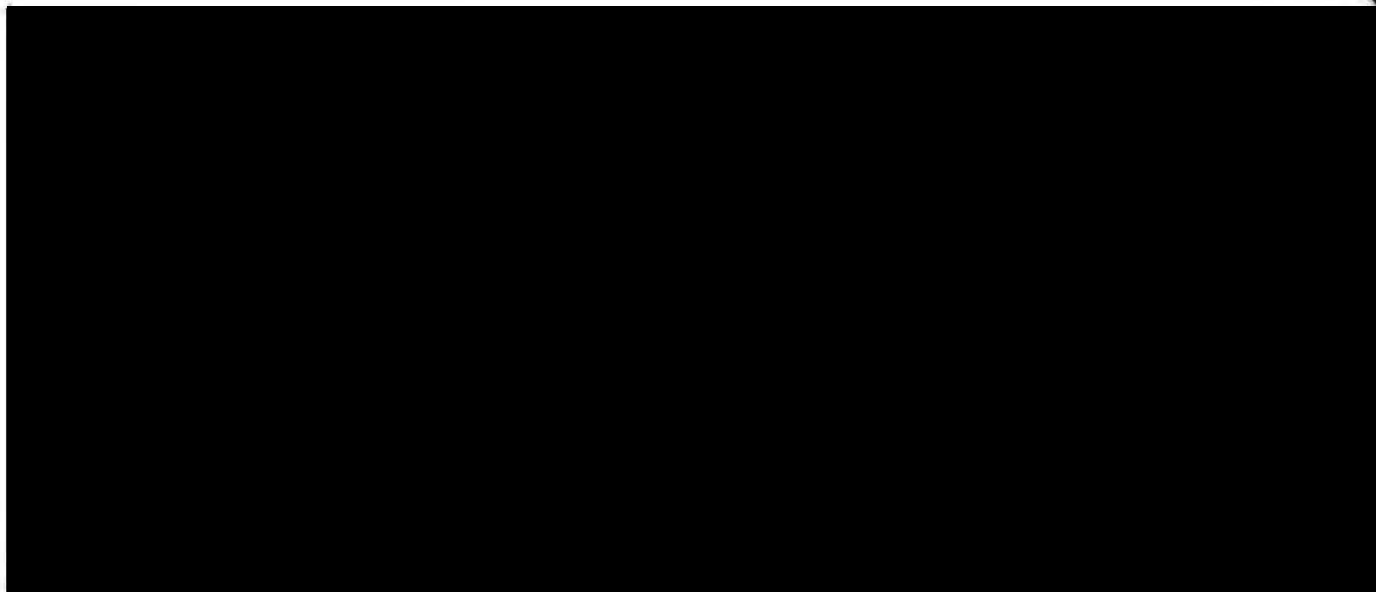


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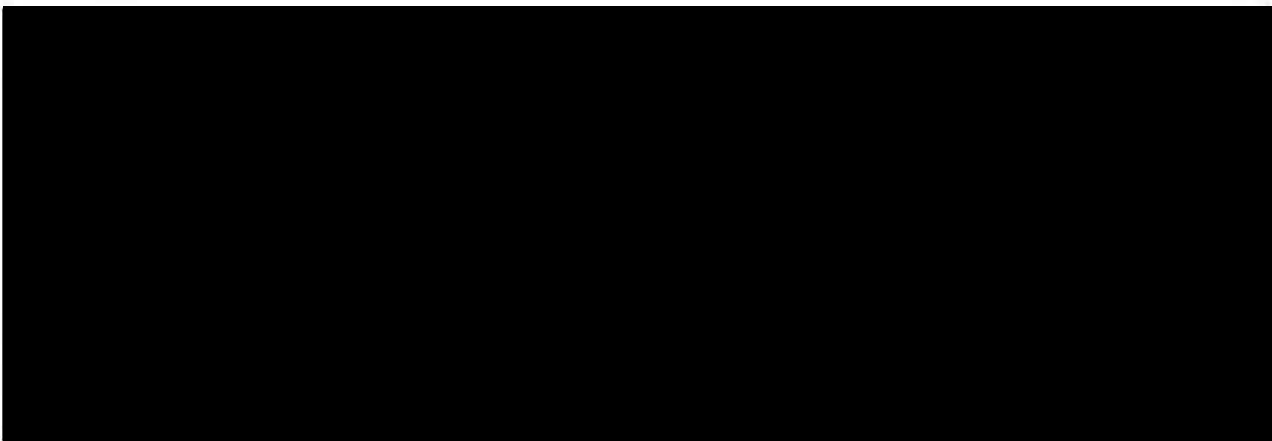
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51. I graduated from Arizona State University (ASU) in 1981 with a Bachelor of Science in marketing. During my time at ASU, I attended approximately 15 to 20 marketing classes and I was president of the American Marketing Association for the Phoenix, Arizona group. After college, in the mid to late 1980s, I completed an executive leadership program, called "Executive Education," at University of Virginia.

52. Throughout the last thirty (30) years I have given numerous lectures on marketing within the companies where I worked, and a total of five (5) to ten (10) lectures outside these companies. I can't recall lectures or speeches that were not directly related to my company.



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53. Before being hired by General Cigar as Vice President of Marketing in August 2011, I held the position of President and Chief Executive Officer (CEO) at Starr Hill Brewing from 2007 to 2011. As President and CEO, I led all aspects of the brewery, including, with our board of directors marketing strategy.

54. Before becoming President and CEO at Starr Hill Brewing, I held the position of Executive Vice President and Chief Marketing Officer at Kronos Foods from late 2005 to 2006. My responsibilities at Kronos Foods included leading all aspects of marketing

55. Before Kronos Foods, I was the Vice President of Sales and Marketing at a start-up company called Café Bom Dia for approximately a year in 2005. My responsibilities consisted of leading all aspects of sales and marketing

56. Before working at Café Bom Dia, I held the position of Vice President of Marketing for Pabst Brewing Company from approximately 2001 to 2005. My responsibilities as Vice President of Marketing consisted of leading all aspects of marketing nationally.

57. Before that role, I worked at Diageo, the world's largest producer of spirits and a key producer of beer, first as Vice President of Business Capabilities and then as Vice President of Marketing from approximately 2000 to 2001. As part of my responsibilities as Vice President of Business Capabilities, I developed the strategic plan and assessed the capabilities of the organization, and I made sure that the organization would be able to sustain the strategy. As Vice President of Marketing, my primary duty was to lead all aspects of marketing for the Southeast part of the United States.

58. Before working at Diageo, I held the position of Vice President of Client Service at Spectra Marketing for a little less than a year in 2000. As part of my responsibilities as Vice President of Client Services, I worked with some of the largest beverage companies in the United

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States to help them more effectively understand their target consumer and develop ways to enhance those relationships.

59. Before working at Spectra Marketing, I worked for Coors Brewing Company from 1996 to 2000. I started as a Field Marketing Manager, where my responsibilities included managing marketing for the Midwestern part of the United States. After that role, I was moved to Golden, Colorado, where I held the position of National Promotion Director. As National Promotion Director, I worked with the Field Marketing Directors and the Marketing department to develop consistent approaches to the market place in order to leverage the company's strengths. I was responsible for developing promotions; I was one of the sponsors of the National Promotion Committee. After National Promotion Director I held the position of Director on Premise. My responsibilities for this role consisted of leading the sales and marketing team nationally, to develop strategy and drive sales, or to increase sales in restaurants and bars across the United States.


60. Before working at Coors, I held different titles at Nabisco in between 1992 and 1996. My first role at Nabisco was District Manager for the Chicago Marketplace where my responsibilities entailed leading a 125-person organization responsible for improving sales and market share and presence in the Chicago market. My next position at Nabisco was Regional Marketing Manager, where my duties included managing marketing for the Midwestern United States. I then was Regional Business Director, where my responsibilities included working with three other individuals around the country, as well as with the corporate branch to reengineer the business process for the central part of the country. I also led category management for the central part of the United States, which consisted of helping retailers understand the category

dynamics, and ultimately providing insights so that retailers understood where opportunities and gaps were in their business vis-à-vis their competition.

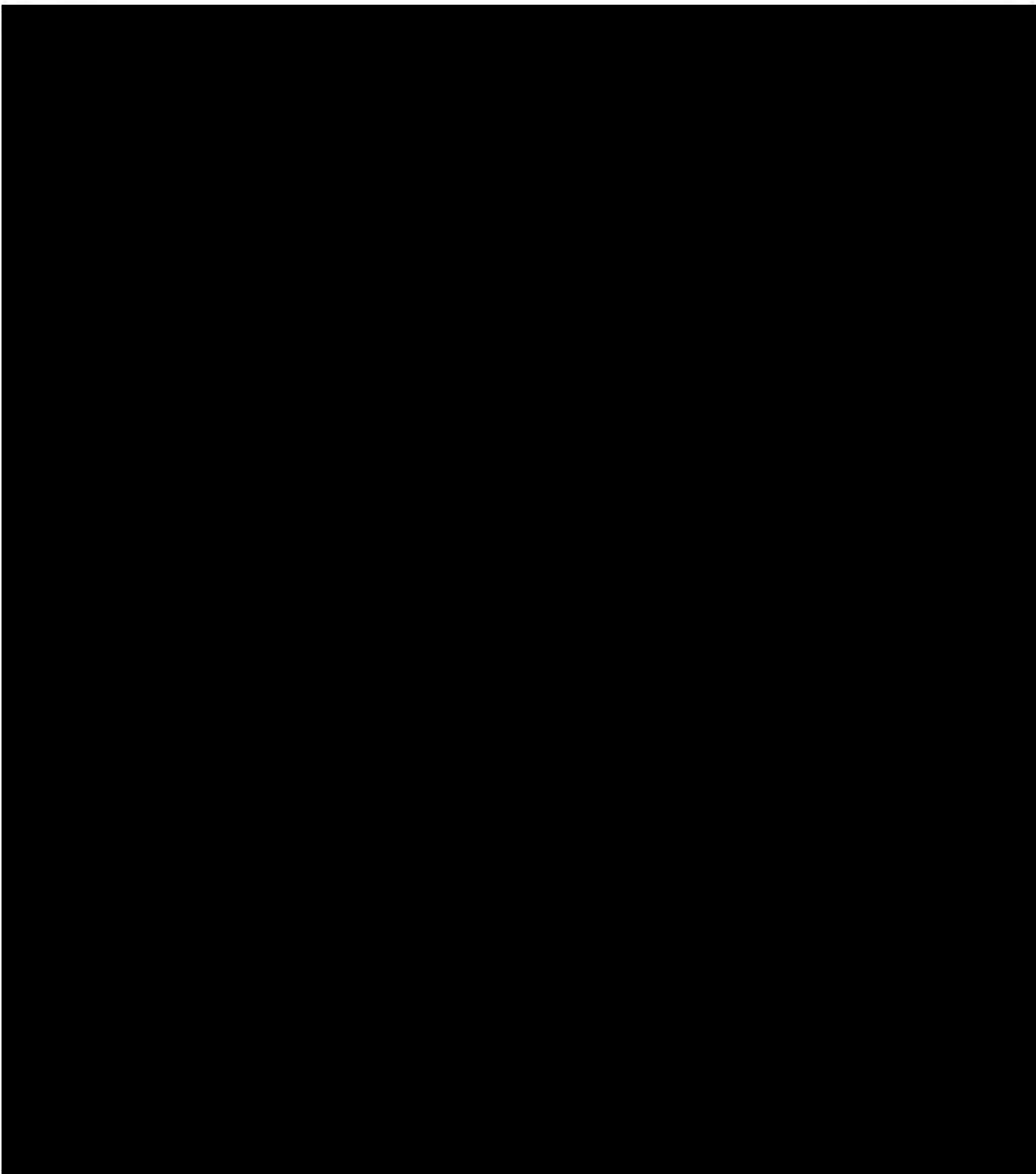
61. Before working at Nabisco, I held several roles at Brach's Candy Company, in the period from 1988 to 1992. My first title at Brach's Candy Company was Regional Sales Manager, where my responsibilities as regional sales manager included to build the sales team and increase sales in the Kansas City marketplace. I was then promoted to Director of Sales Planning where I managed the department and was responsible for developing the freight programs and promotions, communicating the priorities and programs to the sales organization, and worked closely with marketing. I was then promoted to the Director of Developing Businesses, where I was responsible for profits and losses for the food service business, the export business, and the military business.

62. Before Brach's Candy Company, I held the position of franchise development manager at PepsiCo from 1987 to 1988. My responsibilities for that role consisted of making sales calls on independently-owned Pepsi bottlers as well as company-owned Pepsi bottlers, with the purpose of implementing best practices and to increase sales.

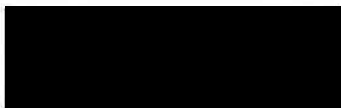
63. Before working at PepsiCo, I held multiple sales and account management positions at Hershey Foods Company from the end of 1981 to 1987.



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Executed on: October 4, 2018
Parkland, Florida

By: _____

A handwritten signature in black ink, consisting of several vertical, slightly curved strokes followed by a horizontal line, positioned above the signature line.

Alan S. Willner



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Alan Willner · 3rd

CEO at Pirate Republic Brewing Company

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Highlights

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Advising companies, Mentoring, Joining a nonprofit board.

Message Alan

About

A visionary leader with Sales, Marketing and General Management experience. Have demonstrated positive results in large, small, turnaround, and startup environments in diverse product categories.

Able to transition quickly and have driven shareholder value across multiple product categories and verticals.
A high energy, versatile, creative and values-based executive who has consistently BUILT, GROWN, and FIXED businesses.

My CPG career has helped me garner an outstanding understanding of CPG disciplines with strong commercial experience in sales, consumer marketing, customer marketing and general management. Moreover have managed geography's, key/national accounts, channels, distributors, category management, trade marketing and sales planning. Also have experience developing budgets, managing P&L's, building portfolio strategy, brand strategy, brand plans, innovation and new product development, promotions, strategic alliances, experiential platforms and social and digital strategy and plans.

My professional style is to build high performance teams by positively influencing, empowering and developing talent.

I possess expertise in the following areas:

- A business builder who unlocks new sources of revenue organically and through innovation
- Generates revenue and increases EBITDA margins
- Able to transfer skills and experience across diverse business verticals and categories
- Disciplined, fundamentally strong and process oriented
- Skilled in developing strategic plans and coaching /facilitating best in class planning processes
- Able to harness company legacy while constructively challenging conventions
- Develops high performing teams and grows capabilities of individuals
- A pragmatic, approachable and inspiring leader
- Social/digital and experiential expertise
- Experienced in developing budgets and managing P&L's
- Leadership team and board experience

Experience

Chief Executive Officer

Pirate Republic Brewing Company

Oct 2018 – Present : 1 yr 3 mos

<https://www.linkedin.com/in/alanwillner/>

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RESPONDENT'S EXHIBIT 39
Cancellation No. 92025859
Empresa Cubana del Tabaco, d.b.a Cubatabaco
v.
General Cigar Co., Inc. et al.



8 Messaging 2



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Our brewery is located in a 130-year-old renovated historic building across from the port of Nassau. We sell our craft beer throughout the Bahamas and we have two tap rooms, one at our brewery and one in Marina Village at Atlantis.

We like to say; our beer is brewed by pirates for pirates! It's about living life on your own terms, take no quarter and give no quarter.

We are expanding throughout the Bahamas and soon will be introducing our amazing beers to the US market.

**Vice President Marketing, Interim President & President Club Macanudo**

General Cigar
2011 - 2017 - 6 yrs
Glen Allen, VA

General Cigar is a division of the Scandinavian Tobacco Group and the largest manufacturer and marketer of premium hand rolled cigars in the US.

Appointed Interim President from November 2015 through March 2016.

Recruited to strengthen and build a consumer centric marketing department, drive change, fuel innovation and product development and lead the creation of a more compelling and aggressive business strategy.

Led all aspects of the most prestigious luxury cigar lounge in the US, Club Macanudo NYC. Member of the executive management team and selected by corporate HQ in Copenhagen, Denmark to lead strategy training and development for key employees in all North American Companies.

[see less](#)

**President & CEO**

Starr Hill Brewery
2006 - 2011 - 5 yrs
Charlottesville, VA

Was brought on by a private investor and Anheuser Busch to lead this startup brewery.

Starr Hill is an award-winning craft brewery located in Charlottesville, Virginia. Their brews have been awarded 22 Great American Beer Festival medals making it one of the more awarded craft brewers in the Mid Atlantic.

During my tenure Starr Hill grew from a startup selling 500 barrels to selling 25,000 barrels in 9 states becoming one of the fastest growing craft breweries in the US.

As its President and CEO had led development of the culture, business strategy, execution, and management of financial results.

[see less](#)

**Vice President, Marketing**

Pabst Brewing Company
2002 - 2005 - 3 yrs
San Antonio, TX

Recruited to Pabst the 4th largest Brewer of beer in the U.S from Diageo to lead the turnaround and development of the marketing department and its portfolio of legendary beer brands.

During my tenure successfully moved the company from a sales oriented to a customer and consumer centric company culture.

Critical to meeting consumer and customer needs my team and I created the portfolio and brand strategies that aligned to the local market, consumers and their needs.

While many agencies take credit for the phenomenal success of the PBR brand, it was this team that garnered the insights and developed the plan that resulted in PBR becoming the 2nd fastest growing domestic beer in the U.S for 3 consecutive years.

[see less](#)

**Vice President, Customer Marketing**

Diageo
2000 - 2002 - 2 yrs
Miami, FL

Diageo is a global leader in beverage alcohol with iconic brands in spirits, beer and wine.

Initially as the VP Business Capabilities, reporting the President I led people assessment ensuring we had the right capabilities, experience and softer skills to fuel success against our aggressive



Messaging



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As the VP Marketing, I had responsibility for leading the brand, trade and customer marketing functions. Built the operating plan, channel strategy, media plan, and pricing and promotional campaigns. I supervised a team of 30, Managed a \$55M budget producing \$370M in sales and \$96M in profit.

[see less](#)**Director, On-Premise Marketing**

MillerCoors

1996 - 2000 - 4 yrs

Chicago, IL and Golden, Co

Recruited by Coors The 3rd largest brewer in the U.S from Nabisco. Initially led Field Marketing in Chicago for the Midwest region.

After a year as the Field Marketing Director was Promoted to the Director, National Field Marketing. This was a newly created headquarter position in Golden, Colorado that focused on building alignment between sales and marketing initiatives and priorities. In this role, created a planning process that aligned corporate marketing and field sales. Served as a key member of National promotion committee.

After a successful campaign as the national Field Marketing Director was promoted again to lead Marketing nationally for the on-premise trade channel.

[see less](#)**Director, Business Development**

Nabisco Biscuit Company

1992 - 1996 - 4 yrs

Chicago, IL

Joined Nabisco the largest Cookie and Cracker Snack Company in the World as the District Sales Manager for the Illinois market. Had responsibility for 130 direct sales people and \$125M in sales.

Within a year was promoted to the Regional Marketing Manager responsible for all aspects of field marketing for 10 Midwestern states.

Was promoted again to Director of Business Development where I held the second most senior role in the region and shared leadership of a \$650M business. Created the annual, quarterly and monthly plans, created sales goals and managed the performance of 8 divisions. Also managed the regional P&L, coached account and sales managers in 13 Midwestern states.

Selected to lead process reengineering and category management for 1/3 of the U.S reporting to HQ in East Hanover, NJ.

[see less](#)[Show fewer experiences](#) ^**Education****Arizona State University**

Bachelors of Science, Marketing

**University of Virginia Darden School of Business**

Executive Leadership Program

Licenses & Certifications**Facebook Marketing: Advertising**

LinkedIn

Issued Aug 2017 - No Expiration Date

[See credential](#)

Messaging 2

[Show less](#) ^

Recommendations

Received (7)

Given (9)

Matt Booth

President Room101 Brand

April 12, 2018, Matt worked with Alan but at different companies

Alan is true executive material. He is a high caliber individual both on and off the field. Alan has the vision and forward thinking to place himself and those with him ahead of the pack whilst having the core experience necessary to fulfill the executive role.

**Daniel McGee**

General Counsel

March 2, 2017, Alan worked with Daniel in the same group

I had the pleasure of working together with Alan Willner on the executive management team of General Cigar for nearly 5 years. I enjoyed working with Alan because he was not afraid of innovating while at the same time remaining true to the integrity of the brand equities which he and his team oversaw and develop... [See more](#)

**Ernesto Perez-Carrillo**

President at EPC Cigars

February 9, 2017, Ernesto worked with Alan but at different companies

I've know Alan for over three years and during that time have admired his hard work ethic and consistent care and follow thru on any project that he has worked on ,he is a true professional who knows how to get things done , Ernesto Perez-Carrillo

**Barry Abrams**

Associate Publisher at Cigar Aficionado

February 7, 2017, Alan was a client of Barry's

I consider myself fortunate to have worked closely with Alan for past several years when he ran marketing and advertising at General Cigar. Far more than just a partnership, it was always a learning experience for me. His enthusiasm is contagious. He's a marketing pro with a clear vision for the big picture an... [See more](#)

**Michael S.**

Chief Information Officer at Hussmann

June 8, 2010, Michael worked with Alan but at different companies

I had the pleasure of working with Alan as part of the Executive Board for Starr Hill Brewery. Alan was brought on board to lead an ambitious growth and expansion plan. He quickly established himself as a key ambassador for the brewery while setting the strategic course for the company. An important compo... [See more](#)

**Tim Jacobi**

Managing Director at GIMA International

November 13, 2007, Tim reported directly to Alan

I have worked for Alan both in Miami (Diageo) and San Antonio (Pabst Brewing Company) for roughly 5 years total. Each time I was privileged to be part of his team and learn from his way of thinking, approaching the brand building side of the business with a unique blend of high level strategic thinking and stre... [See more](#)

**Brad Bridges**

Helping to ensure clients investment in their companies and hobbies profitable.

August 22, 2005, Brad reported directly to Alan

Alan is an excellent leader and strategic thinker. He was given the task of building a marketing organization from the ground up. Pabst Brewing Company had historically been a company driven by the field sales organization but under Alan's leadership was turned into a consumer driven marketing organization in 2 short years.

[Show less](#) ^

Interests

**Douglas Conant**

Founder, Conant Leadership, Former CEO

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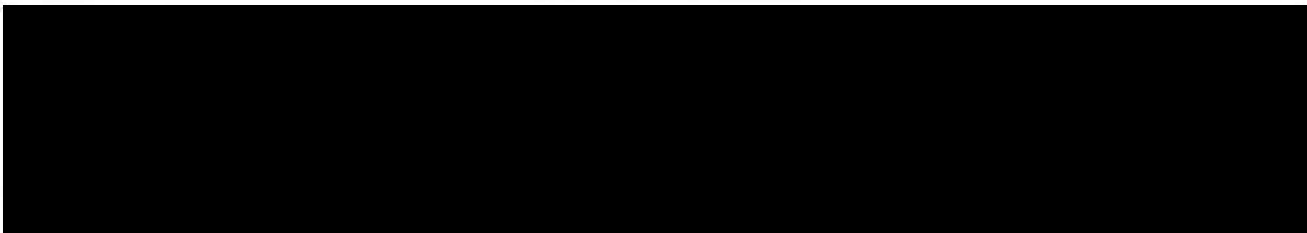
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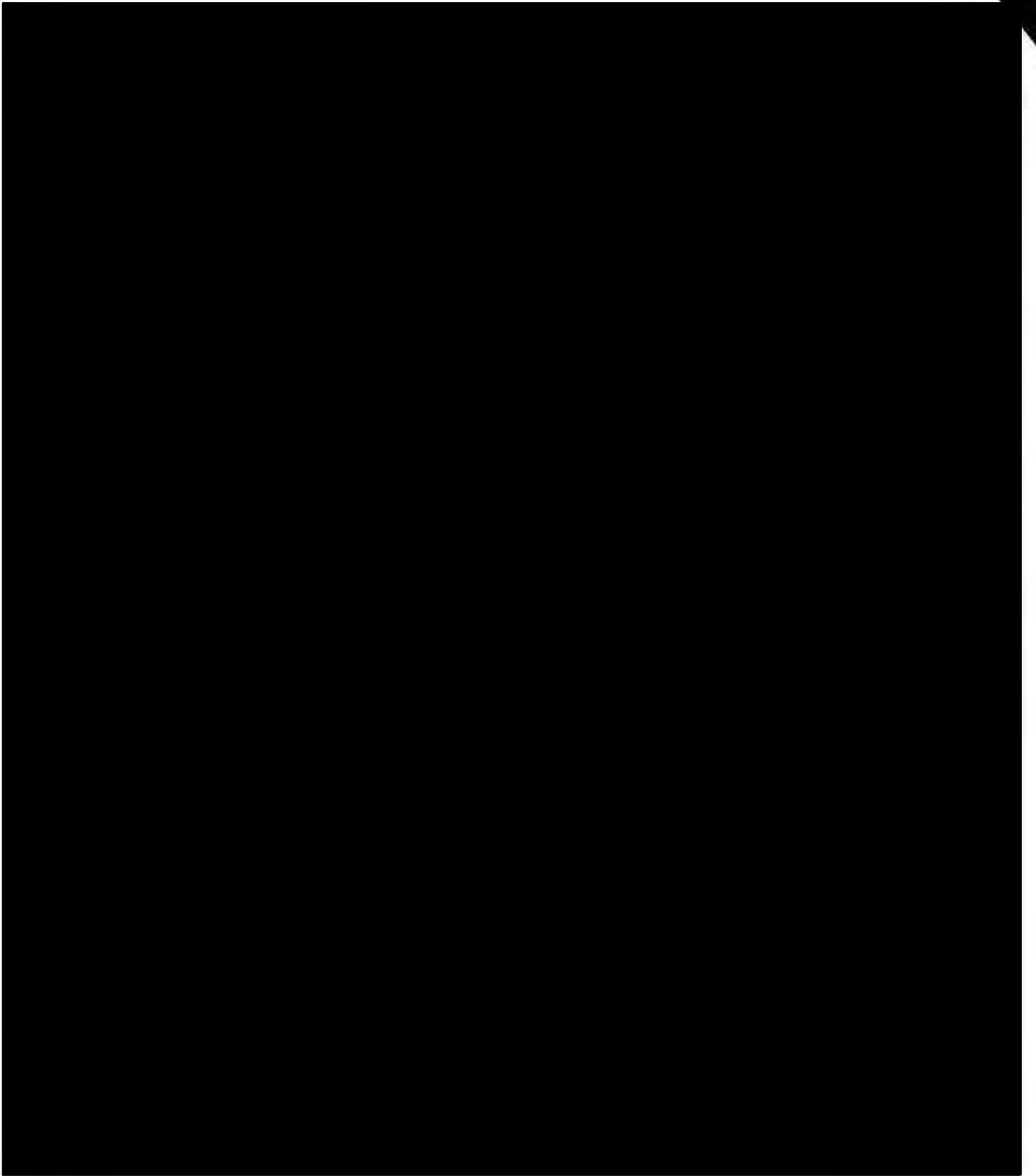
EMPRESA CUBANA DEL TABACO, d.b.a.	X	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
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CORP.	:	
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Respondents.	:	
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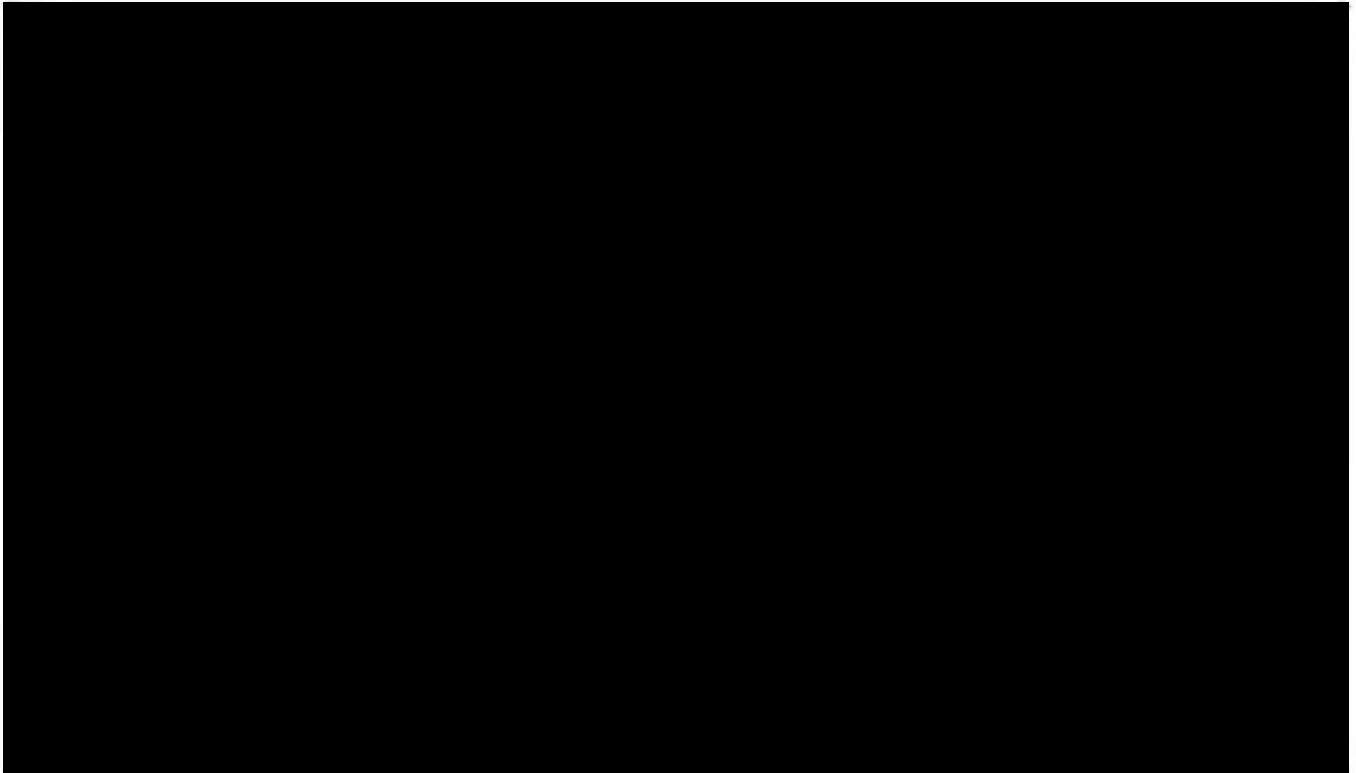
DECLARATION OF ALAN S. WILLNER

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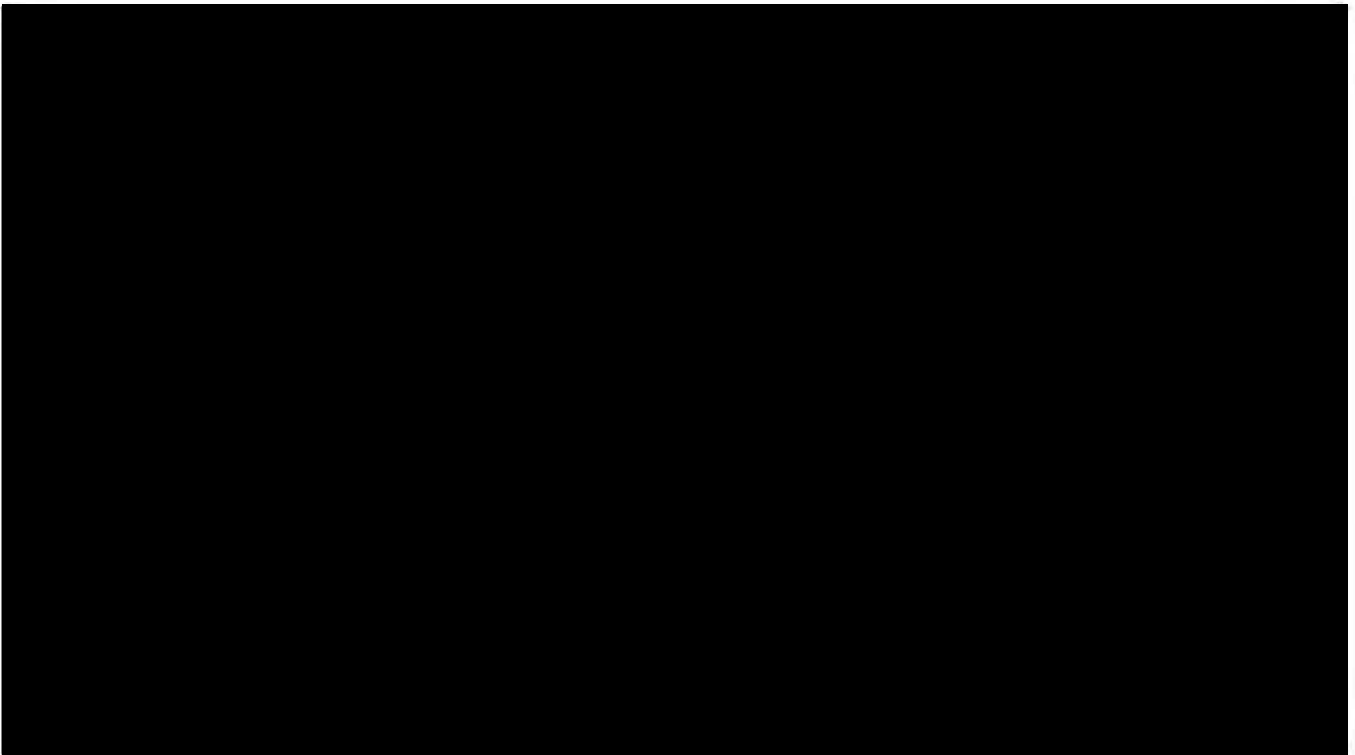
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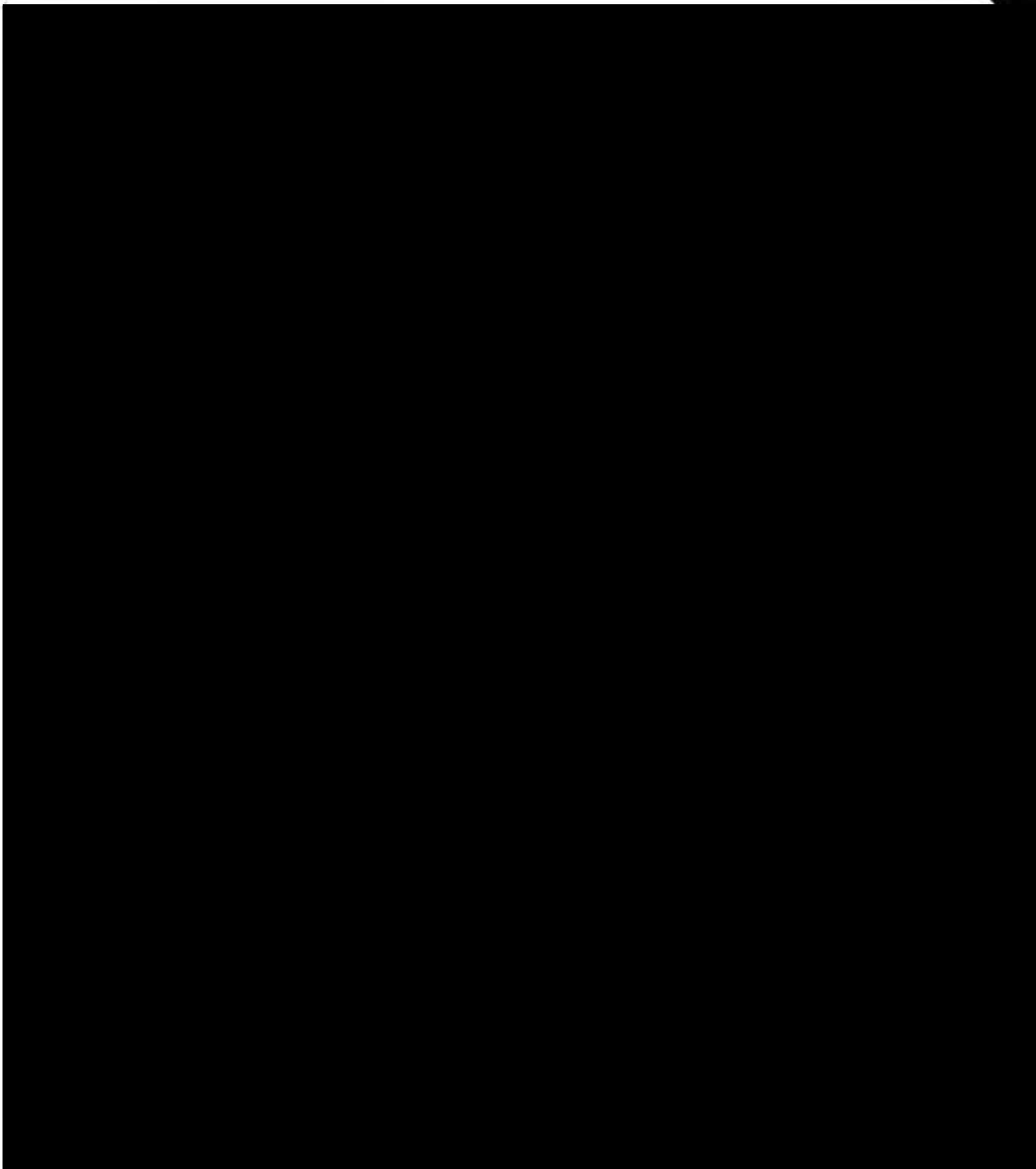


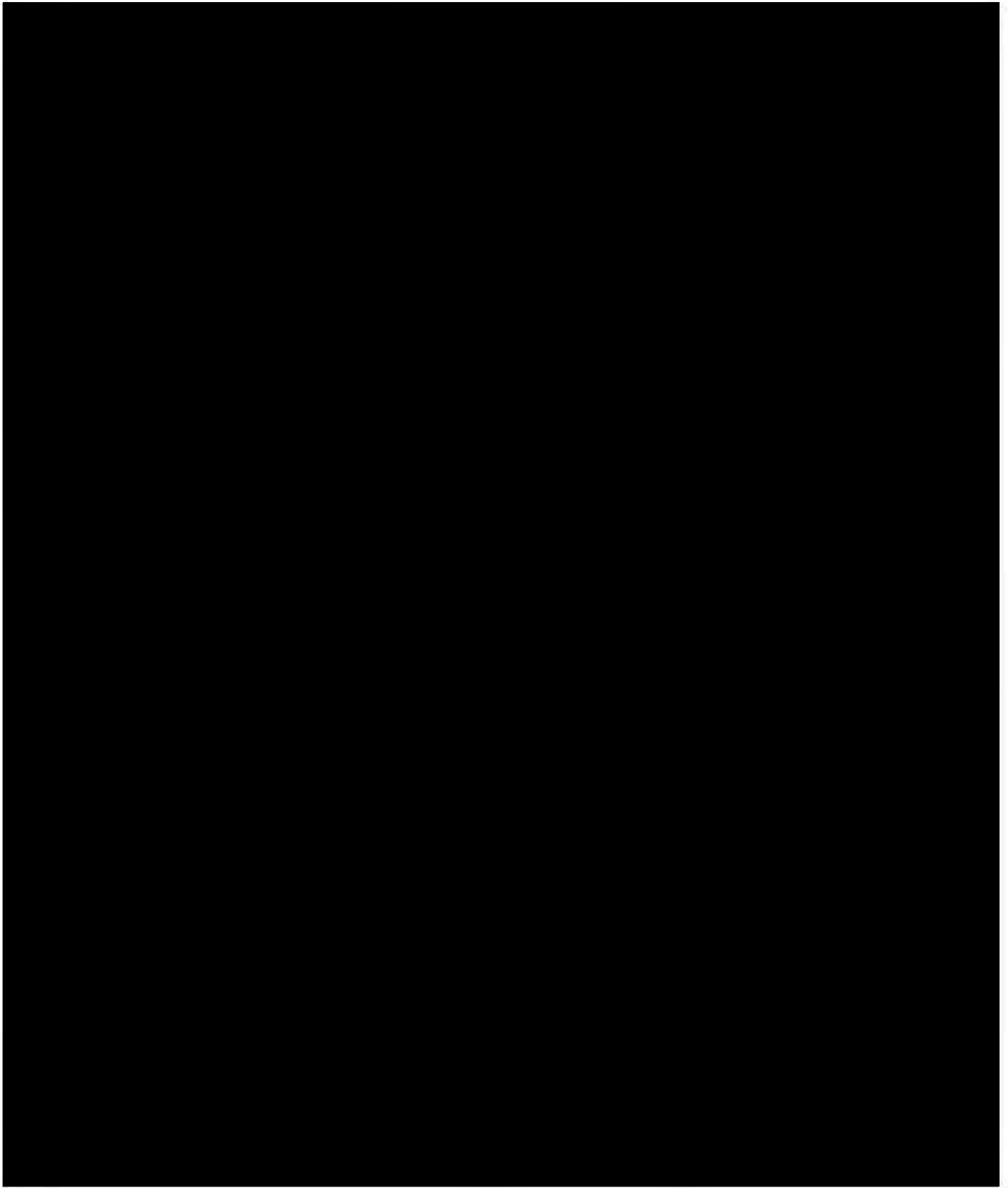


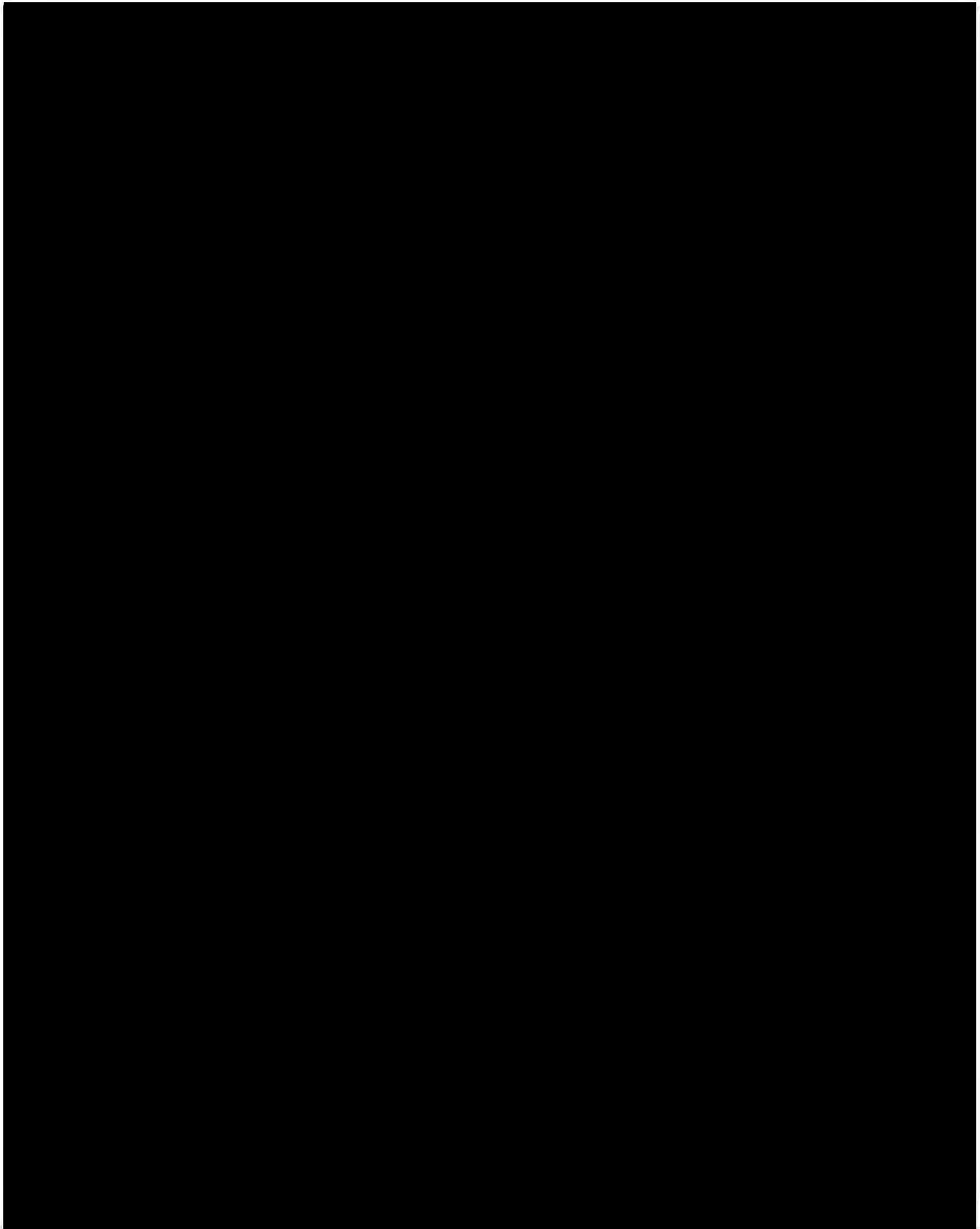


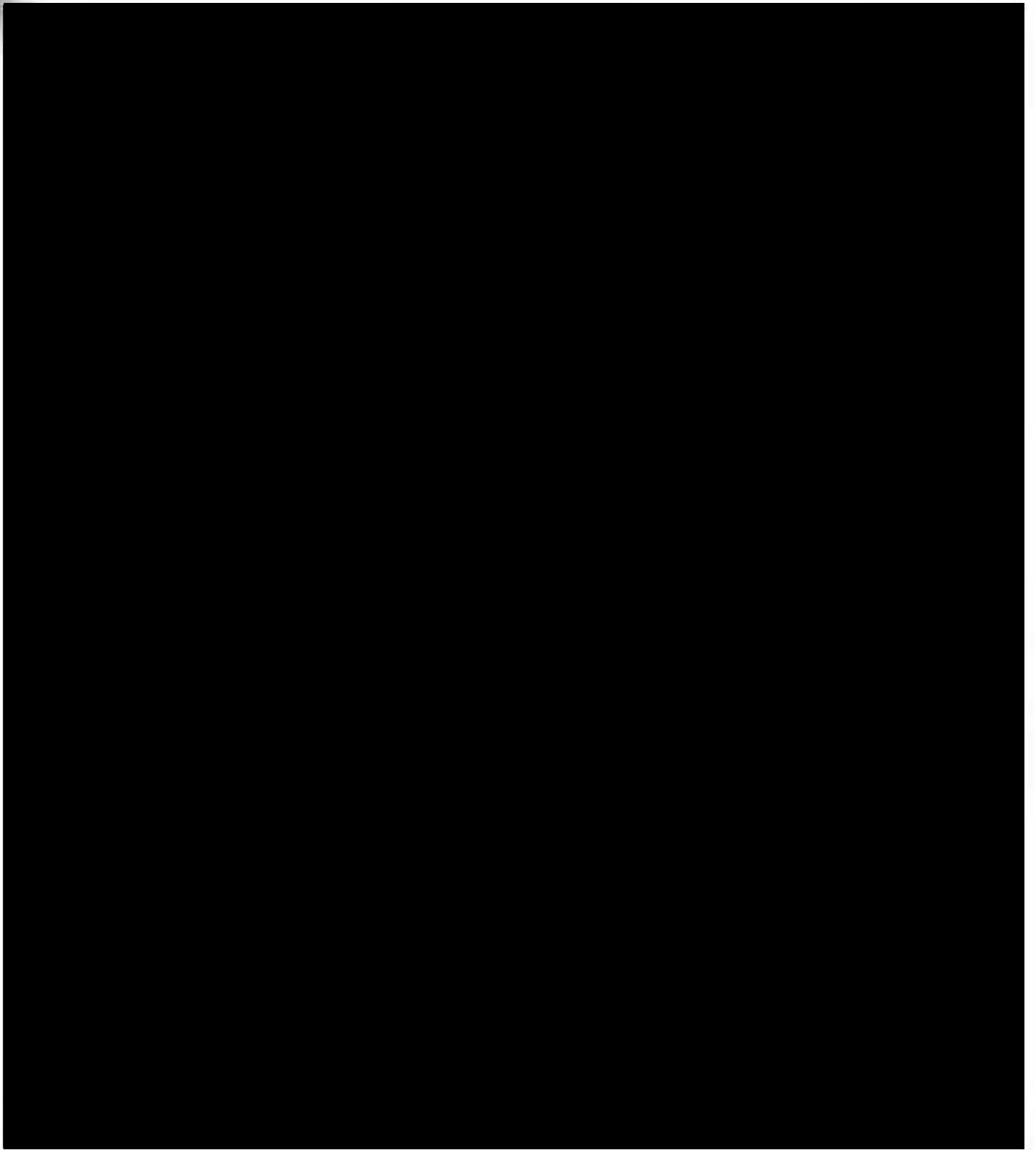
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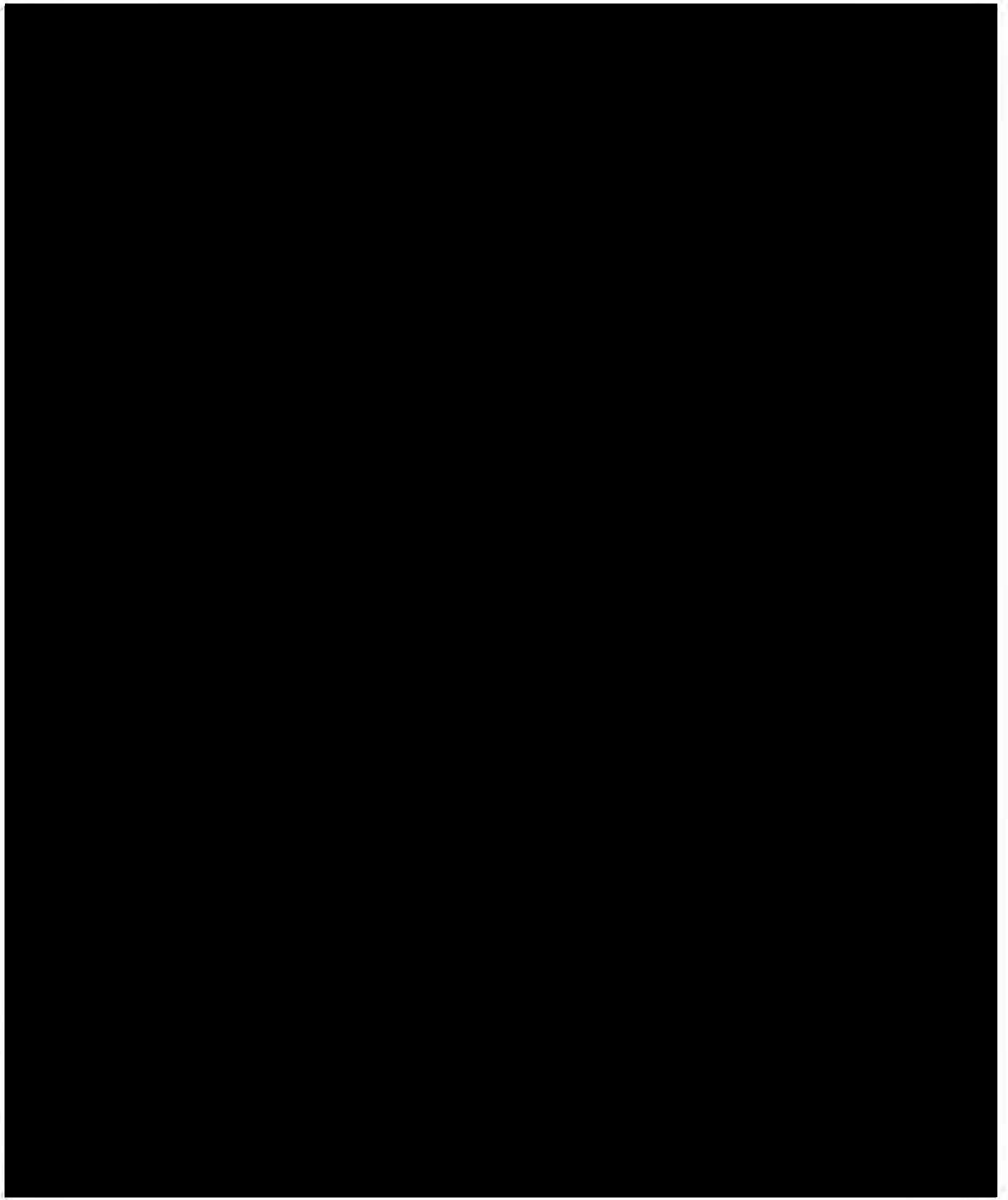


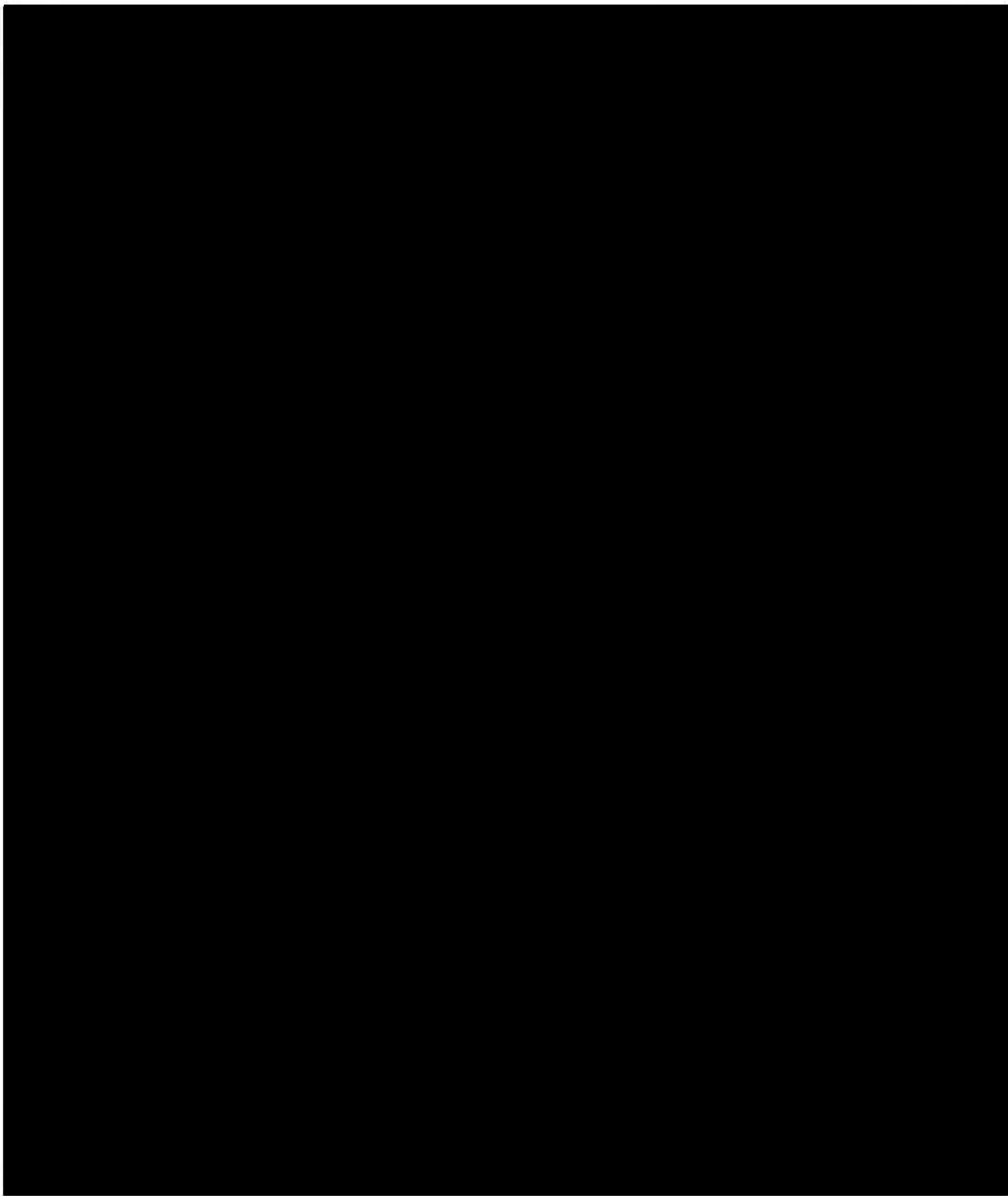


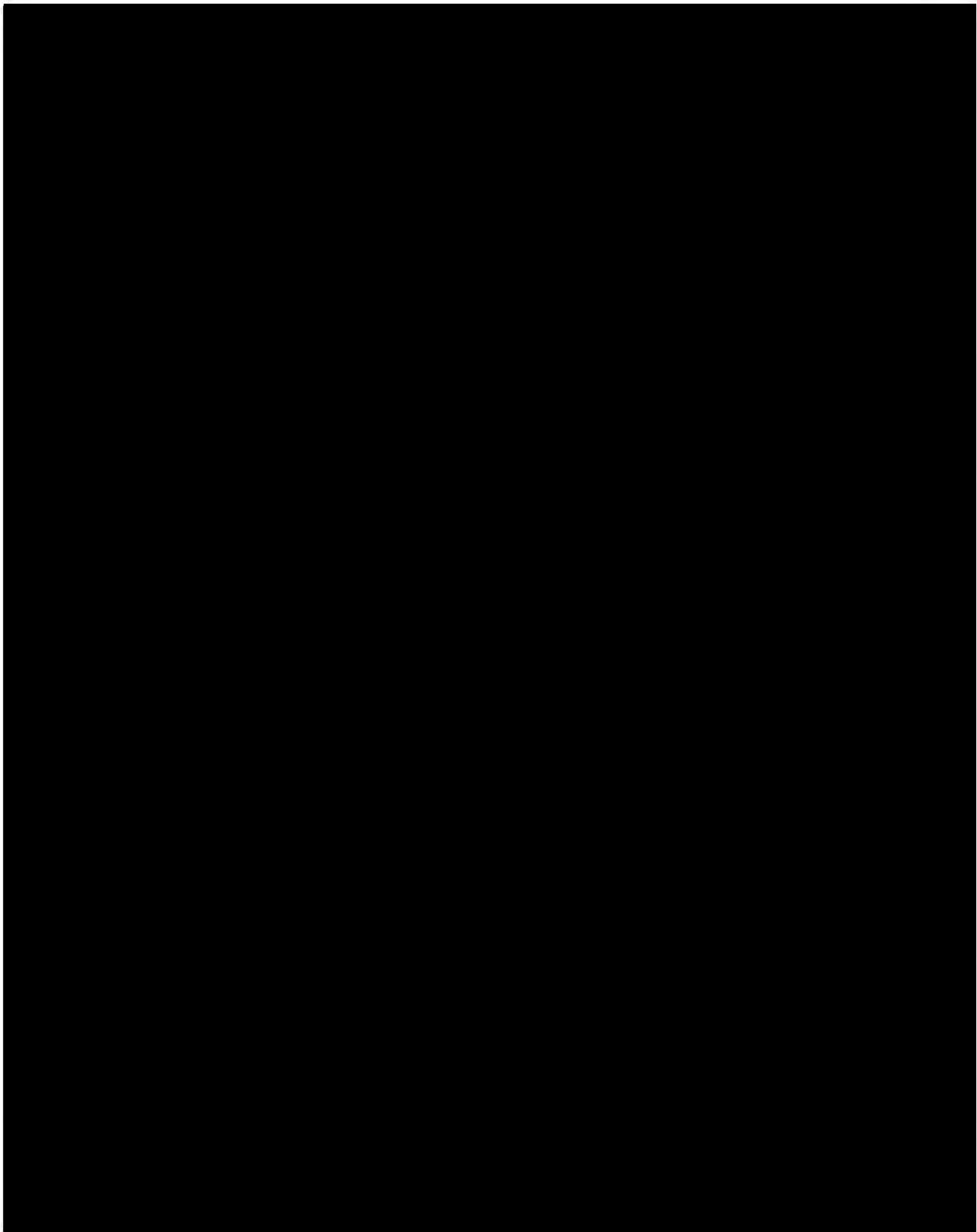


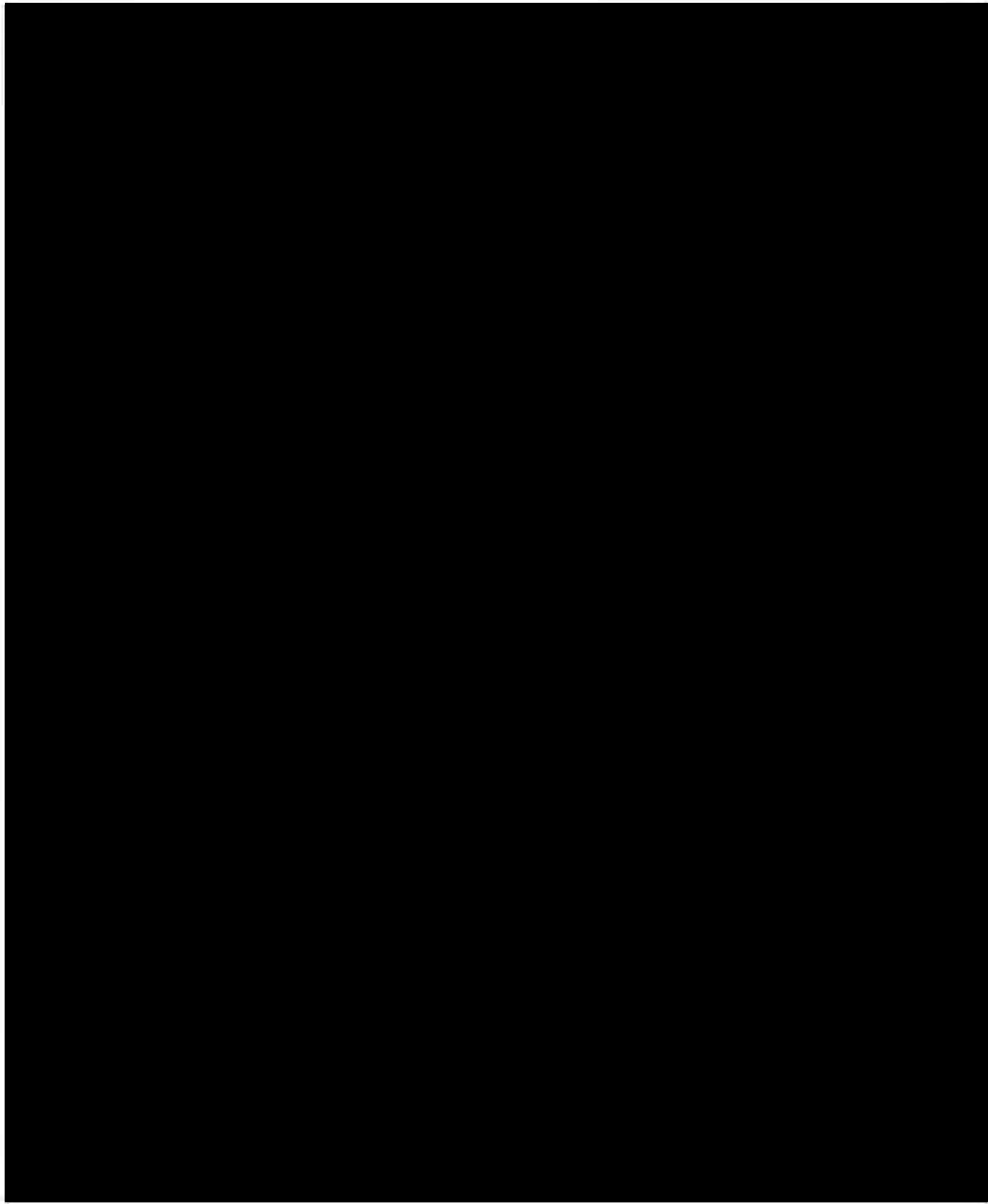


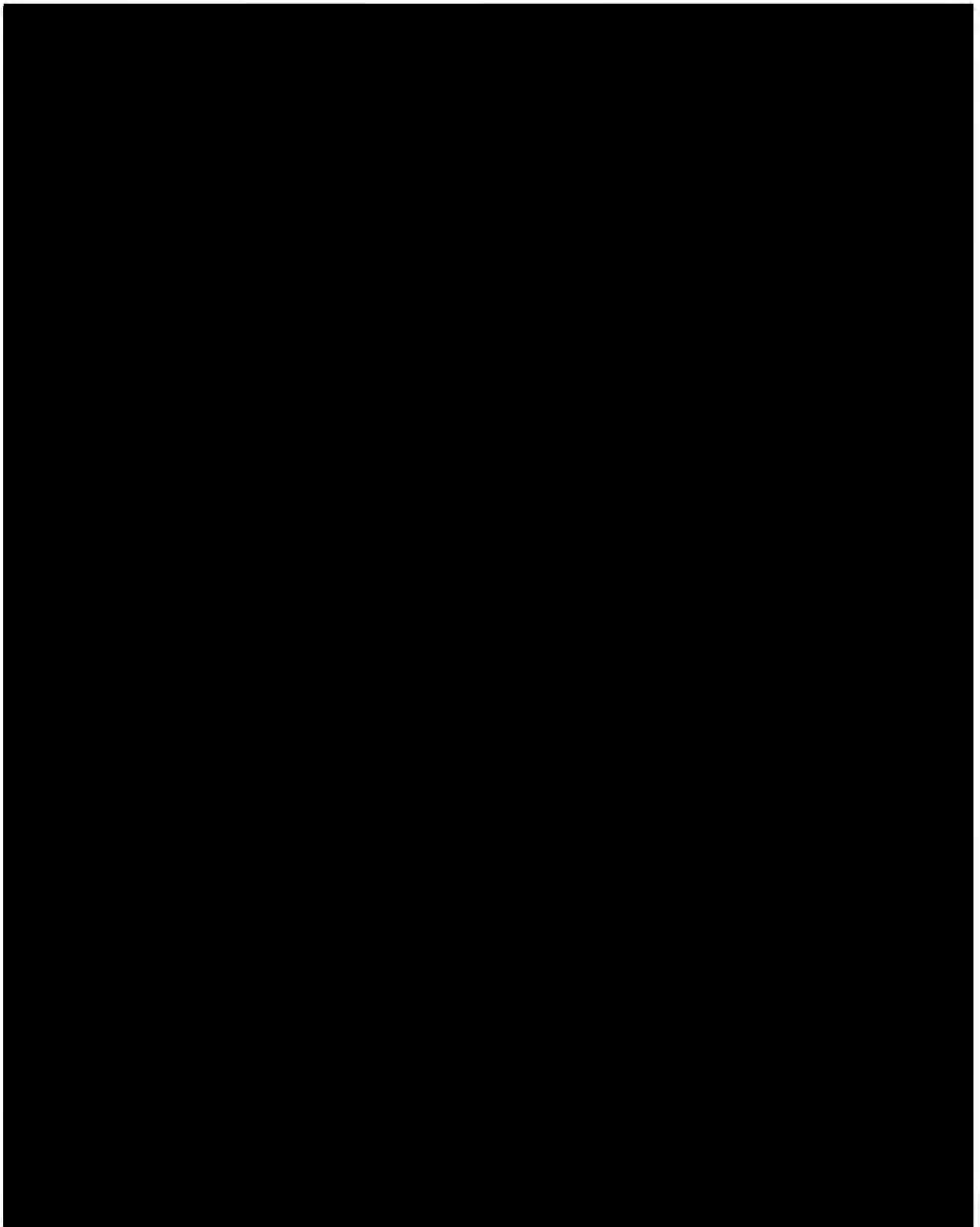


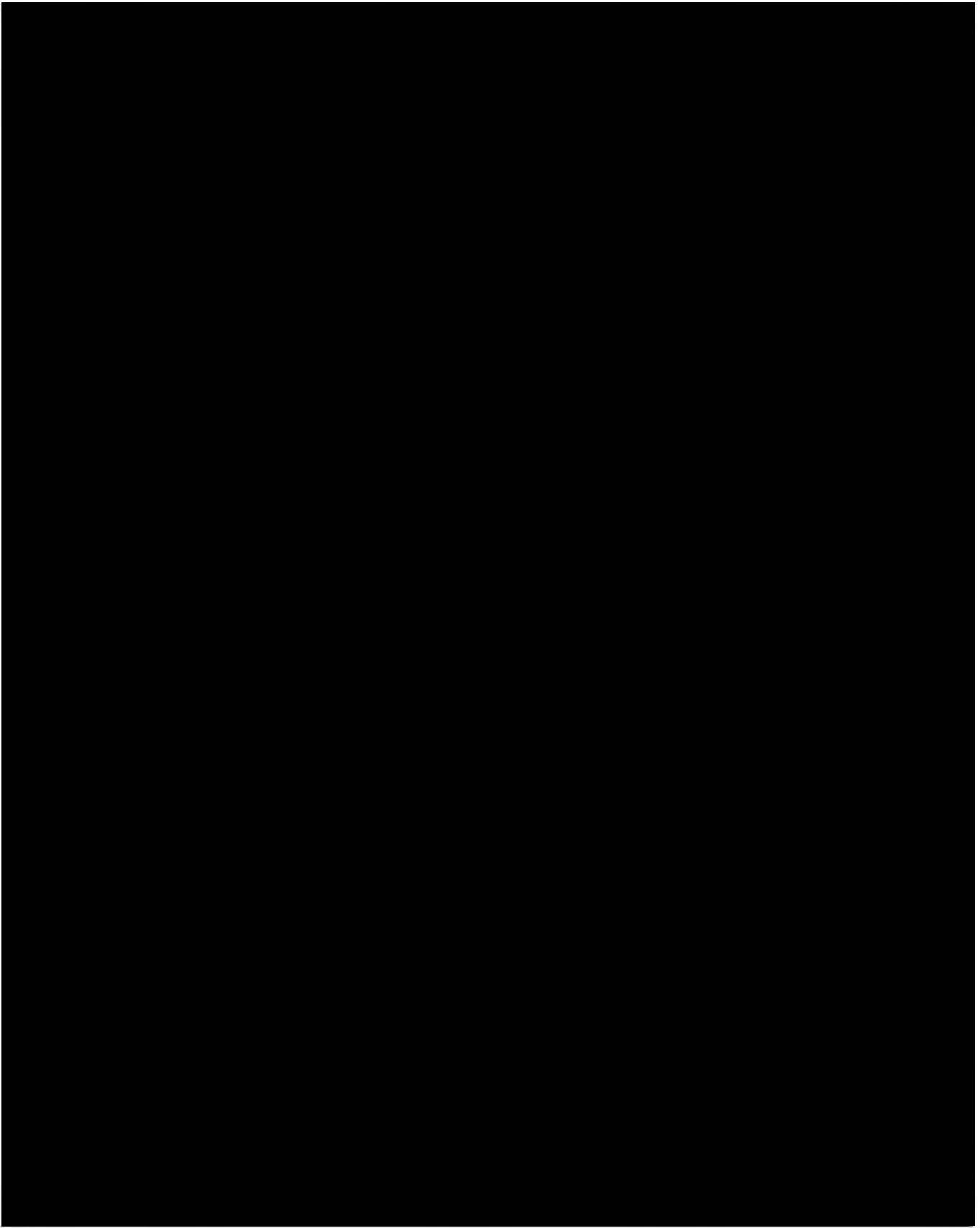


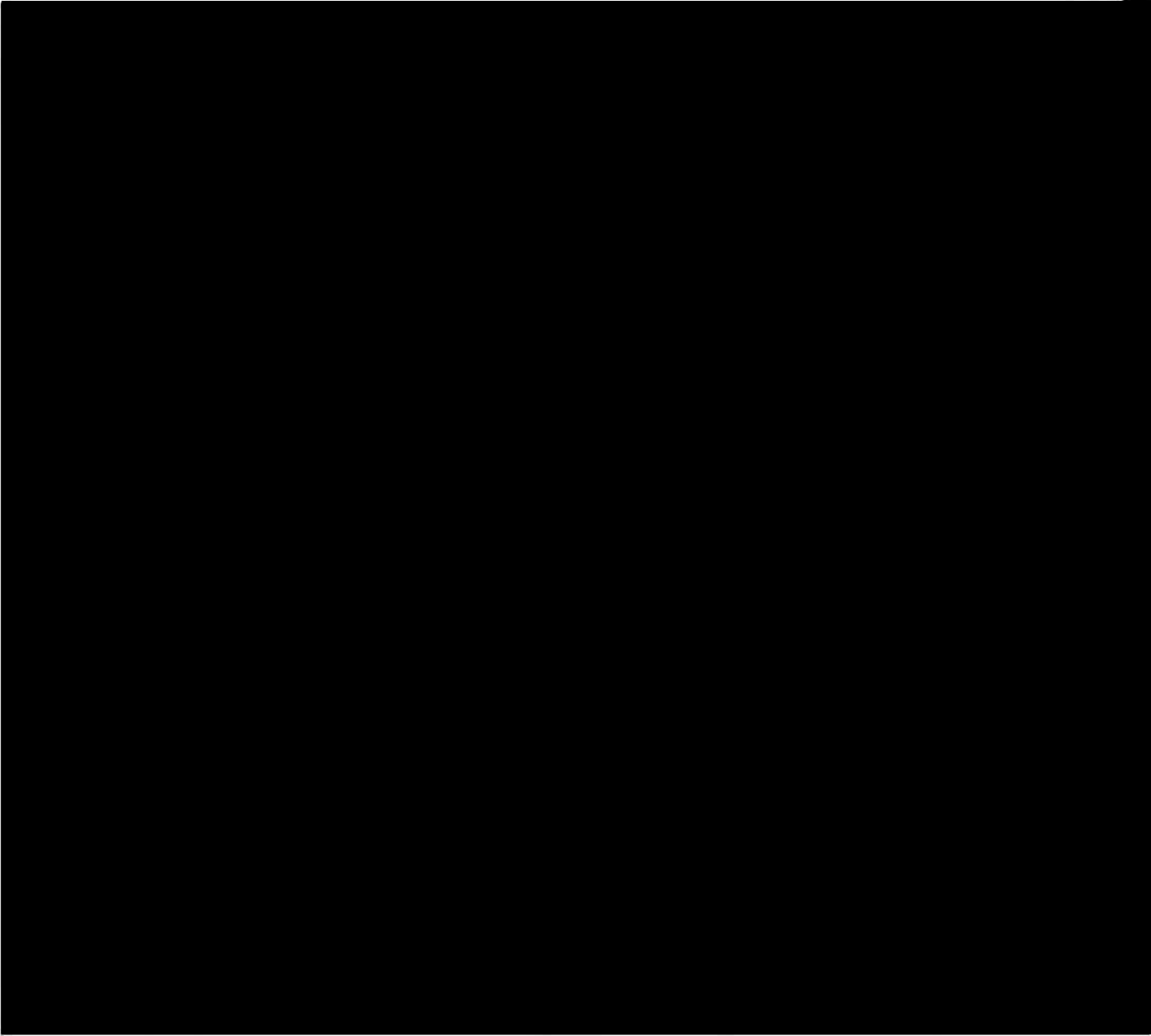













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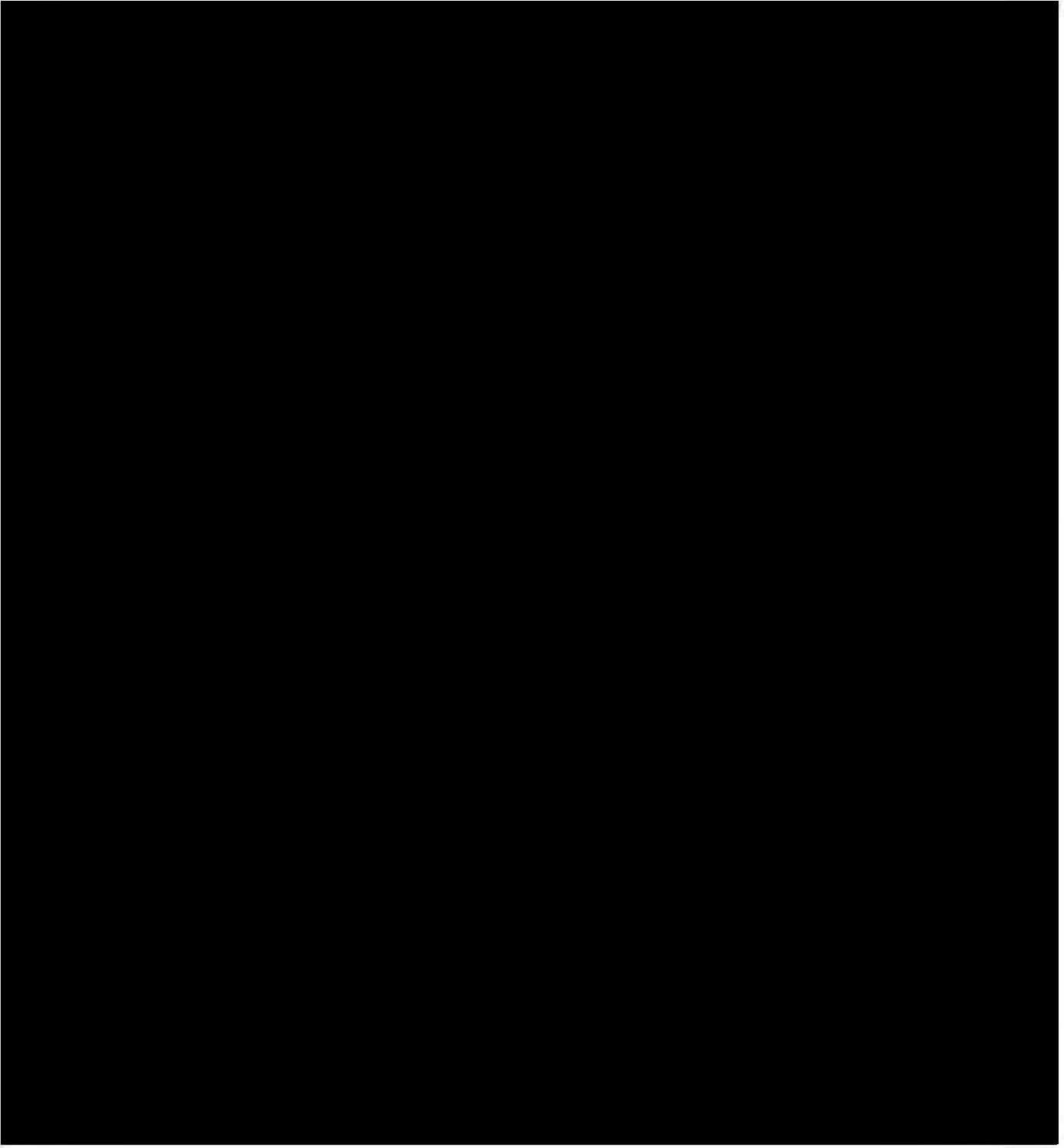
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Executed on: September __, 2018
Parkland, Florida

By: _____

Alan S. Willner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

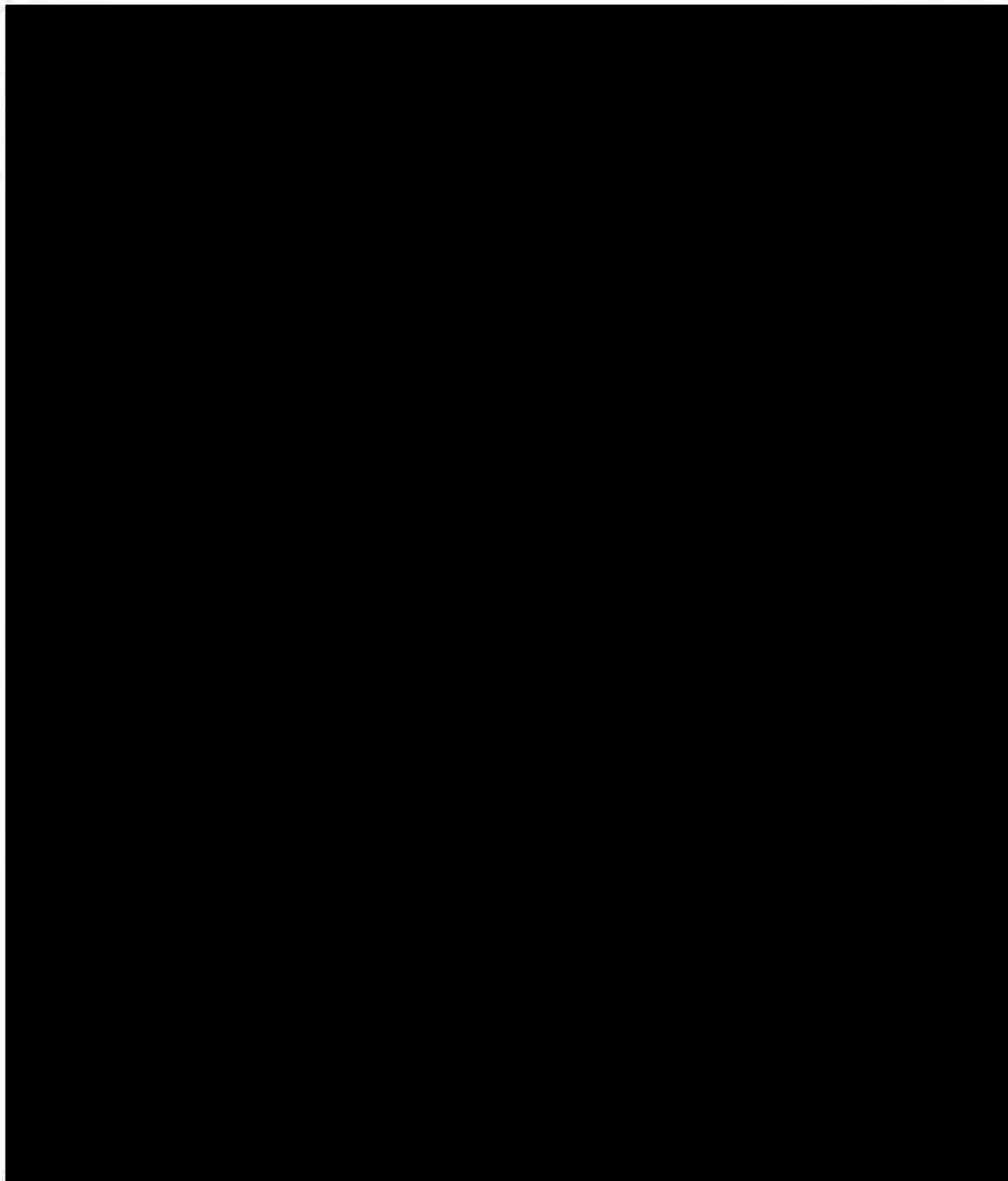
In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

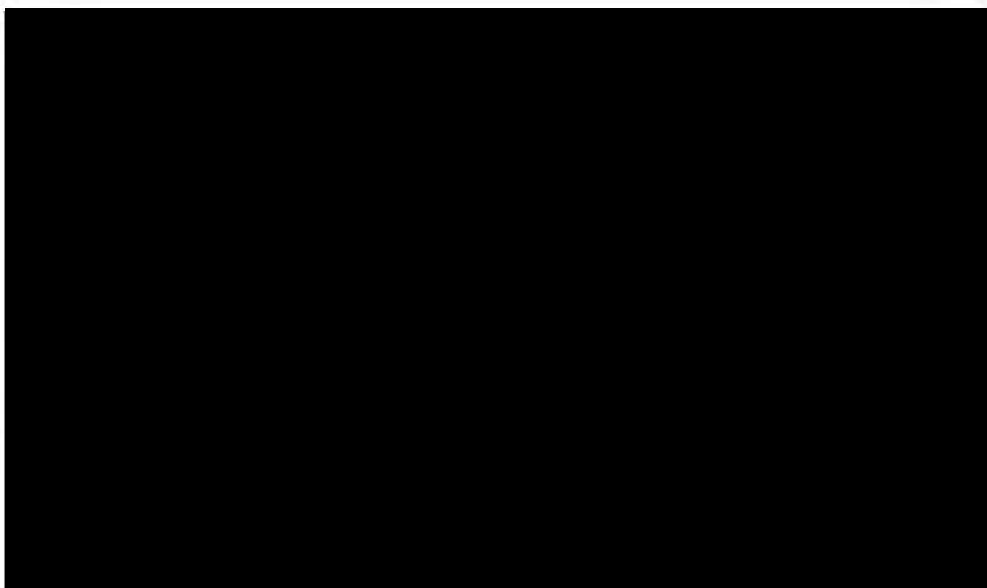
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	Cancellation No. 92025859
	:	
v.	:	
	:	
GENERAL CIGAR CO., INC. and CULBRO	:	
CORP.	:	
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Respondents.	:	
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DECLARATION OF ALAN S. WILLNER

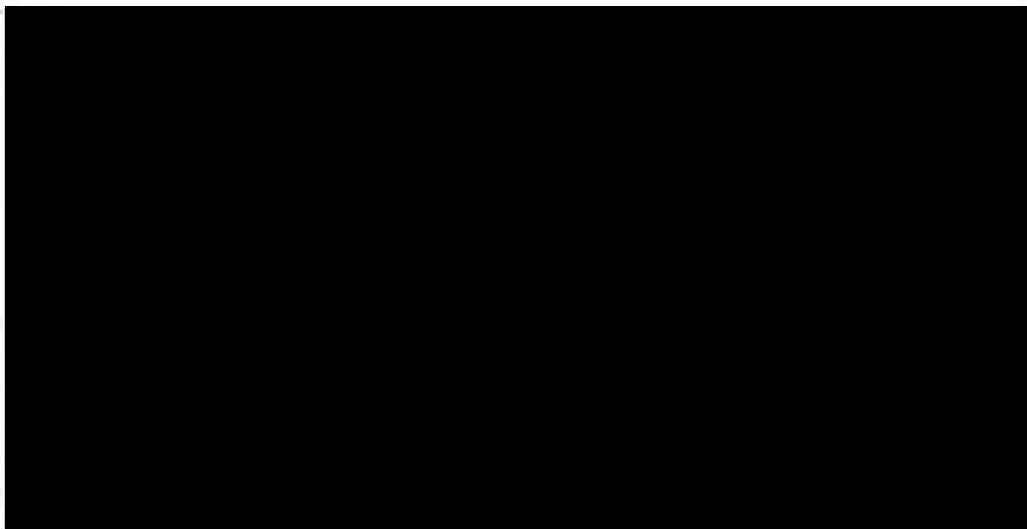
ALAN S. WILLNER declares under penalty of perjury under the laws of the United States of America that the following is true and correct:

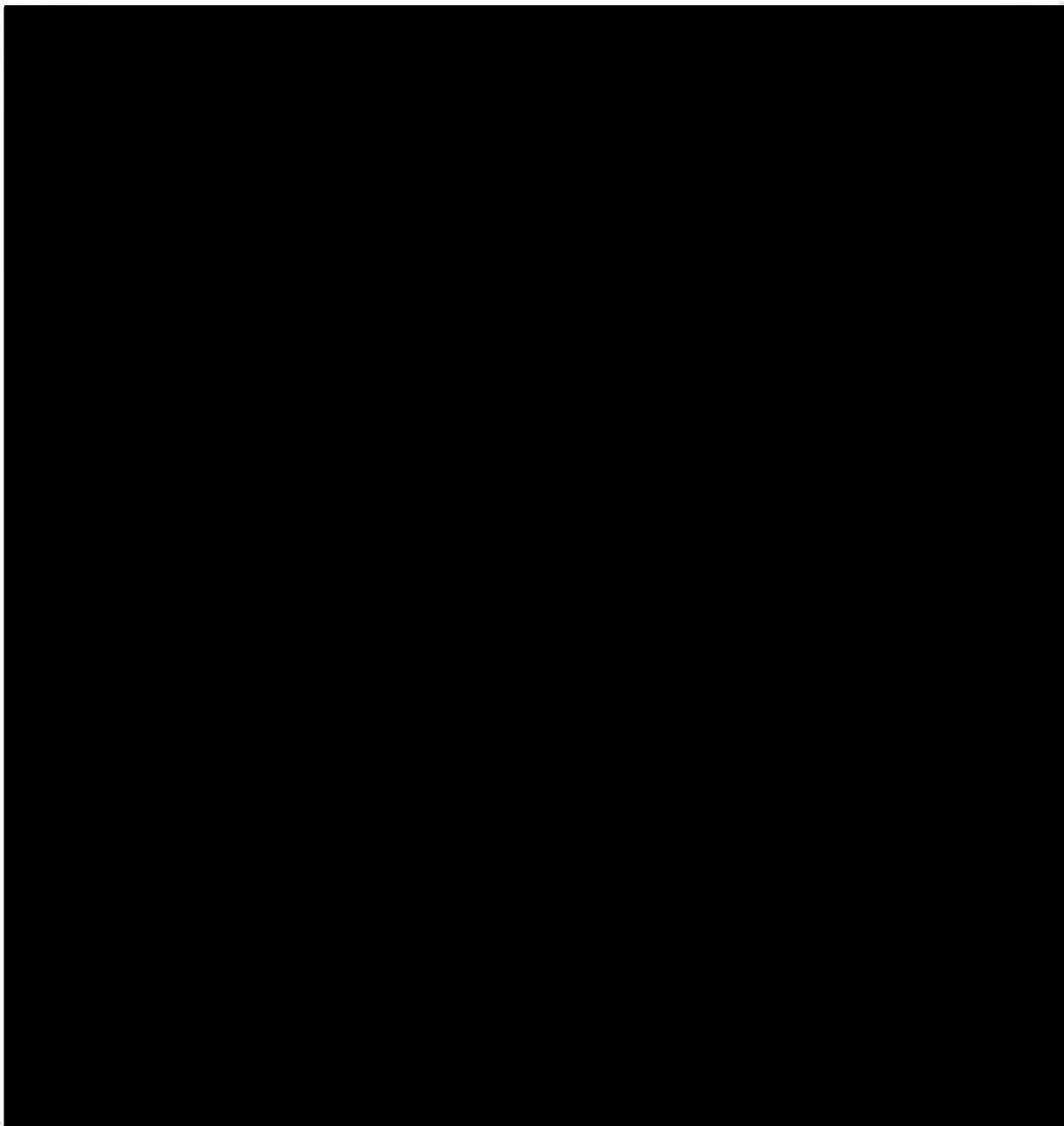
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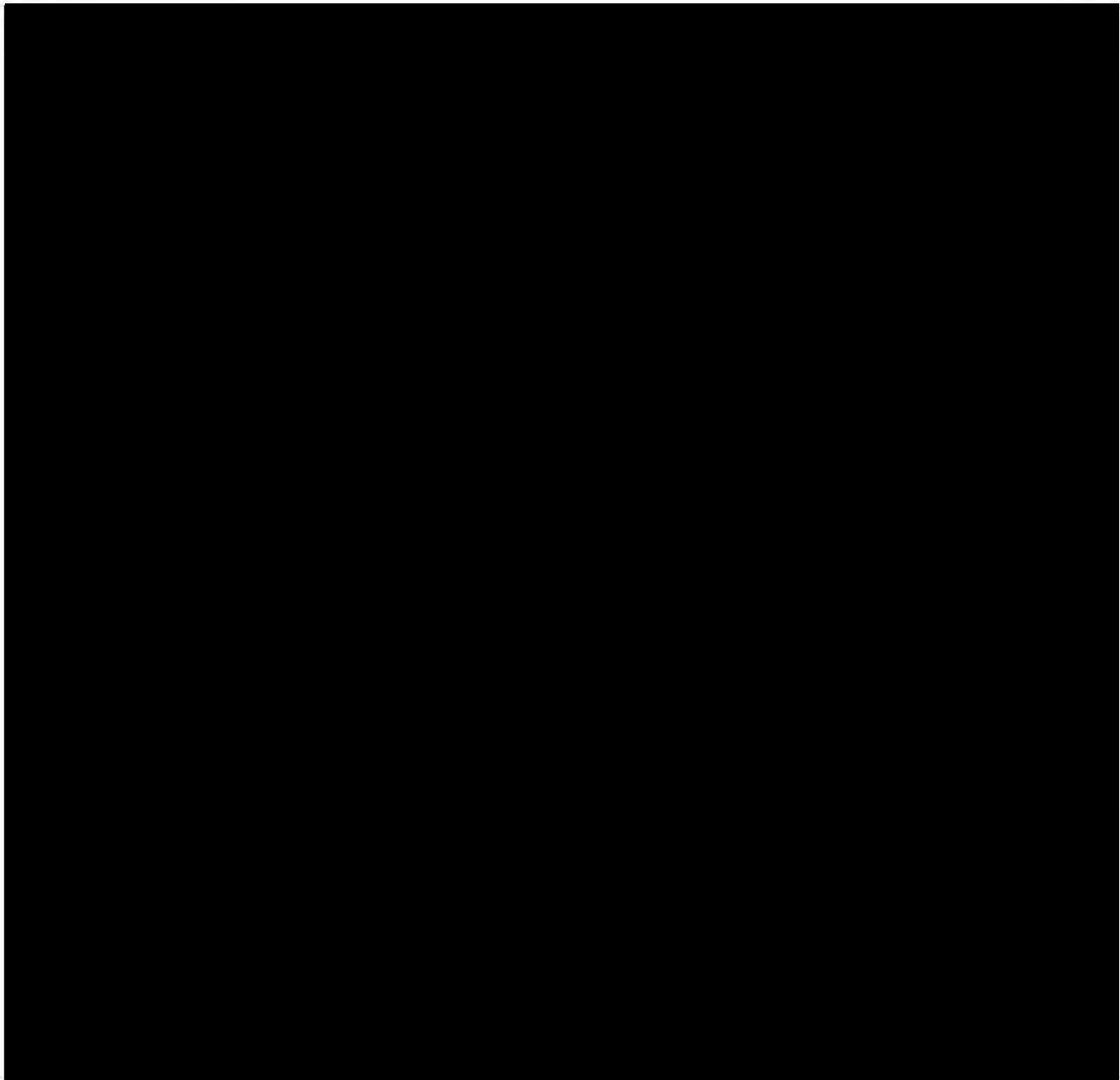


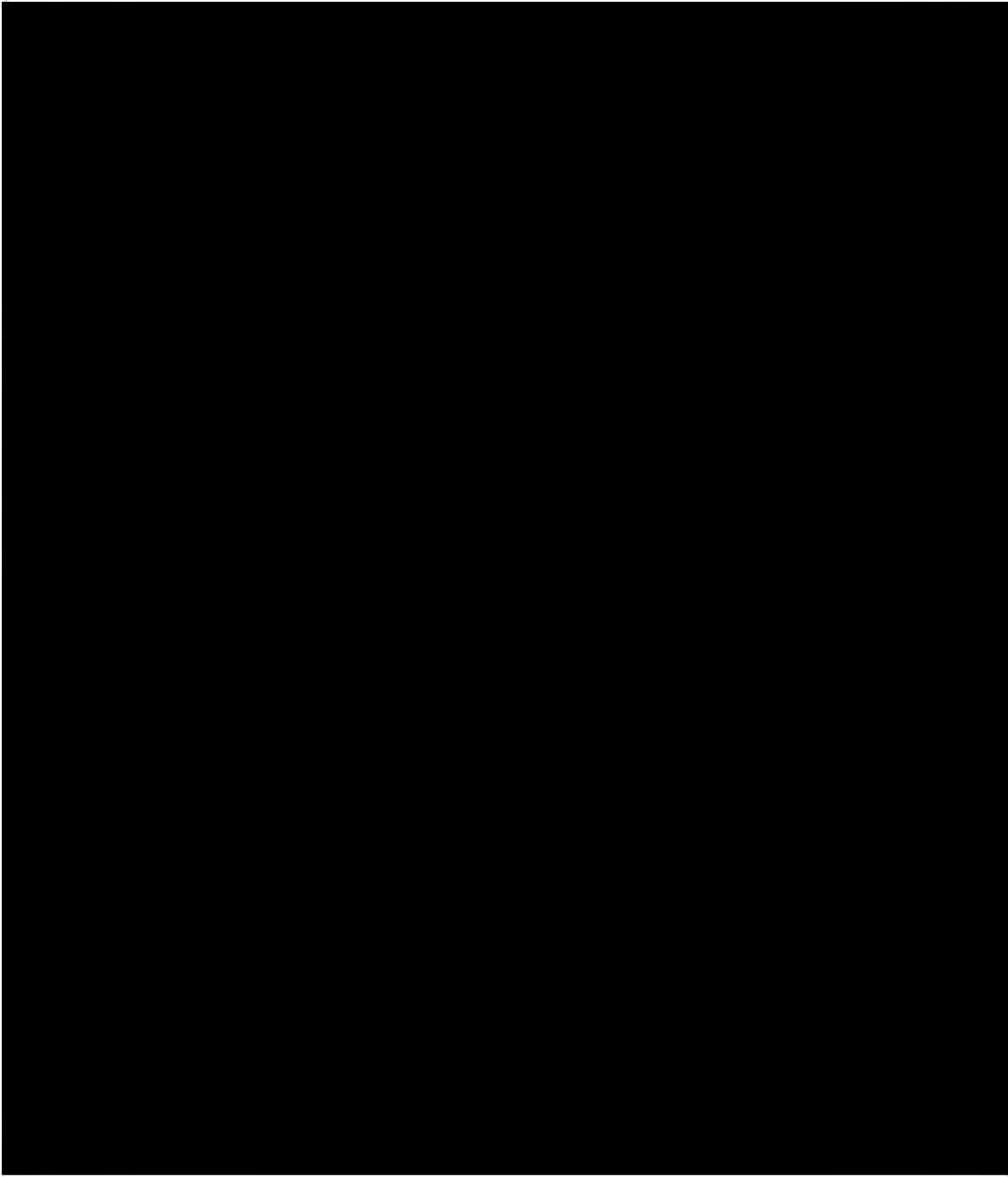


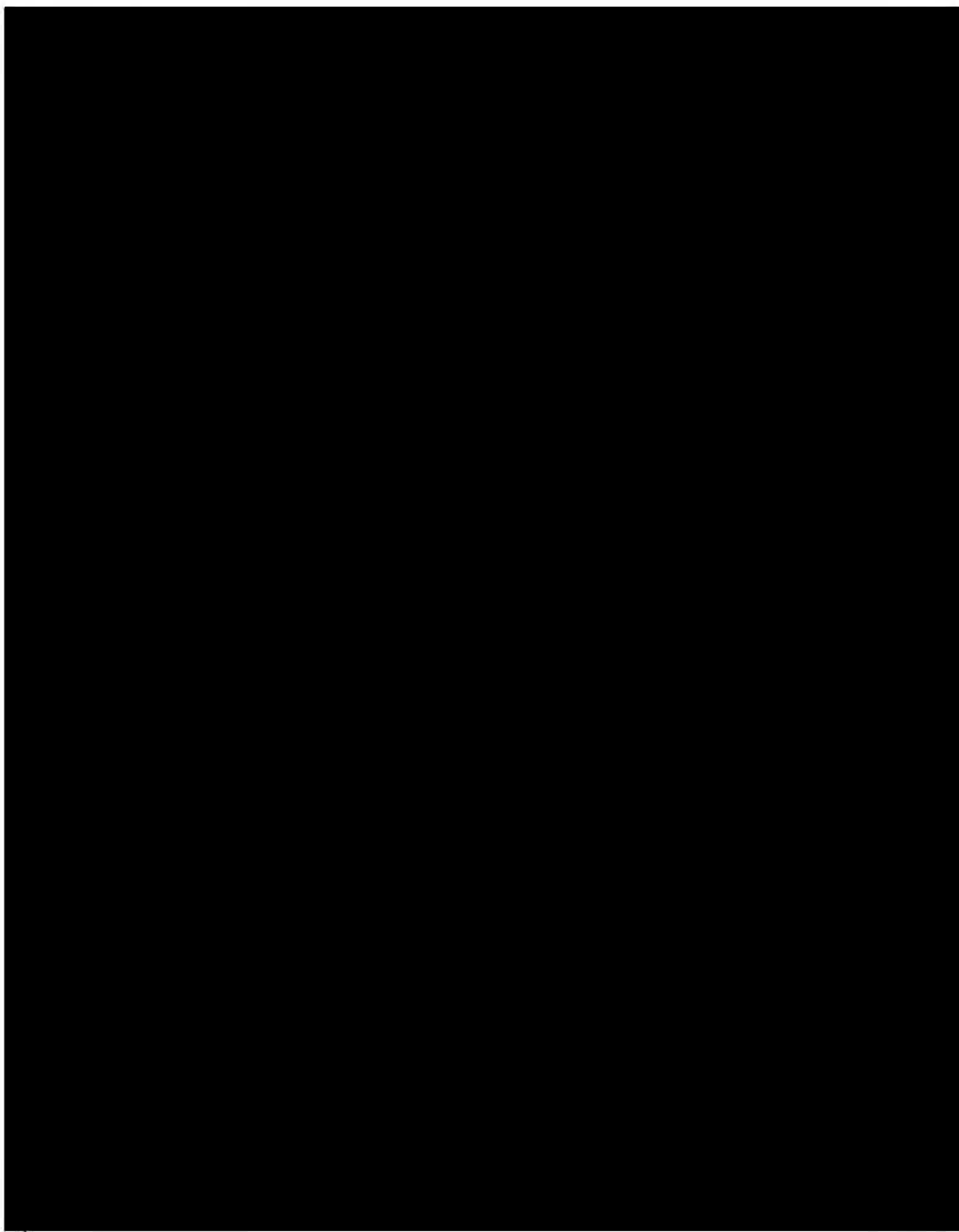
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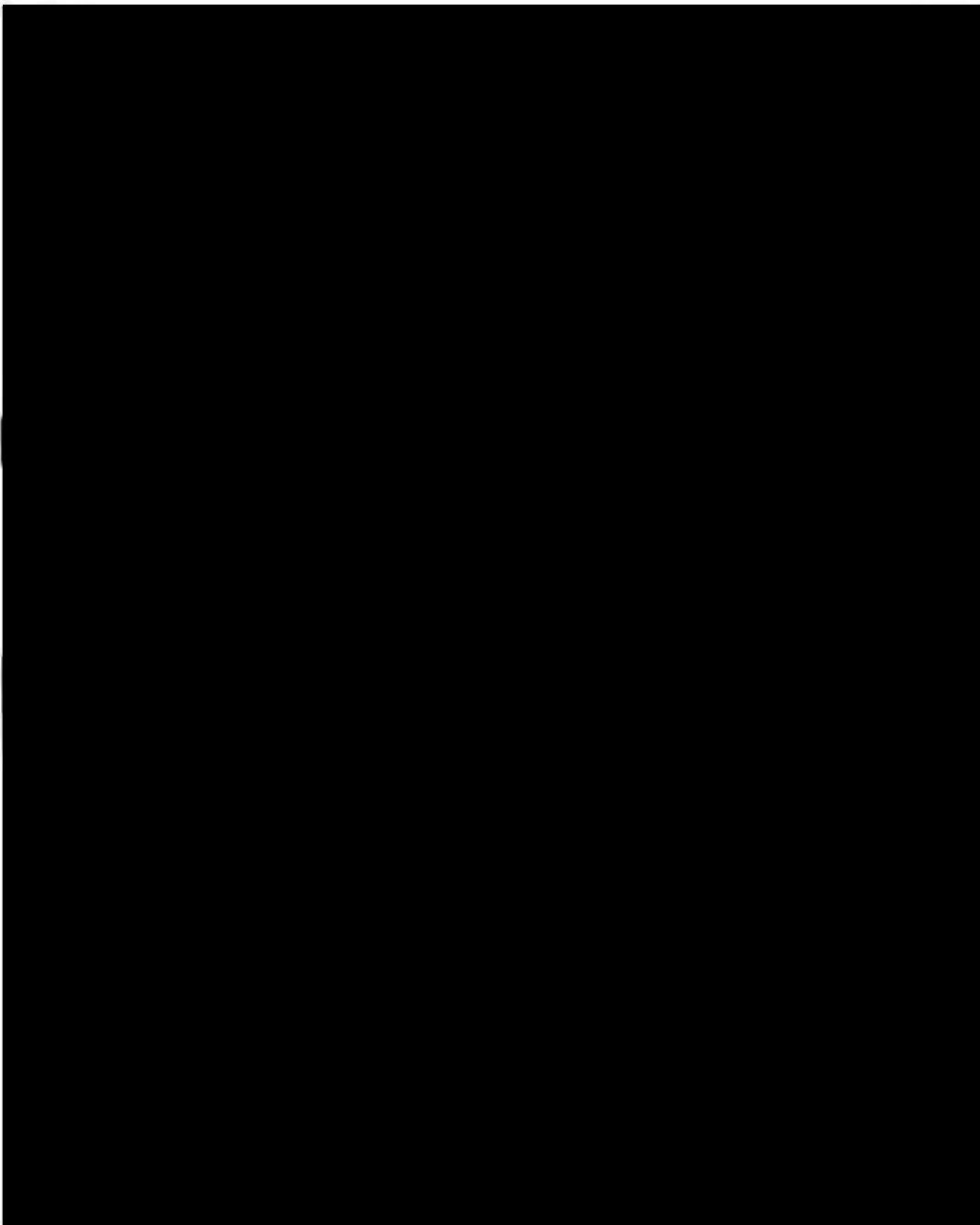


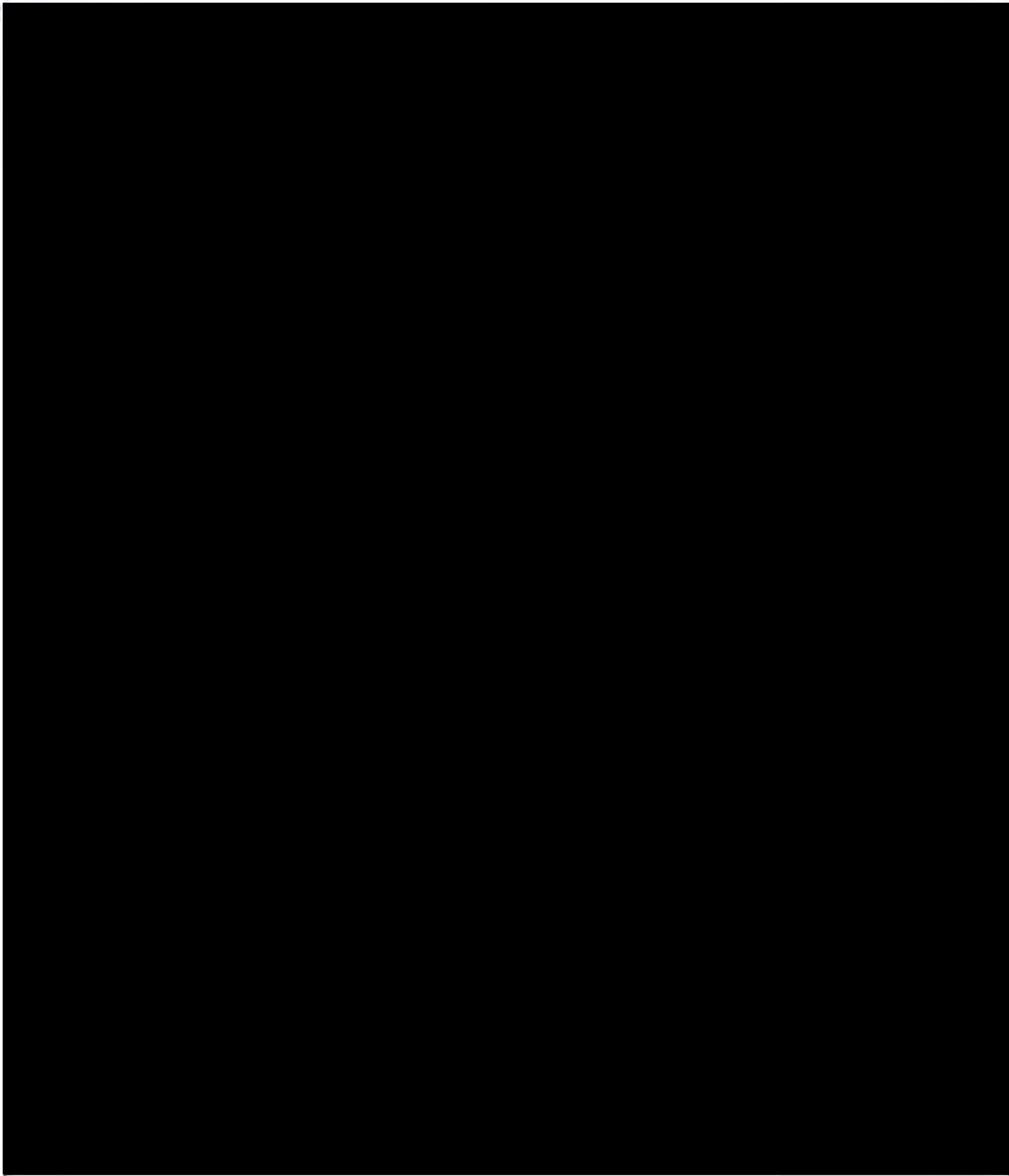


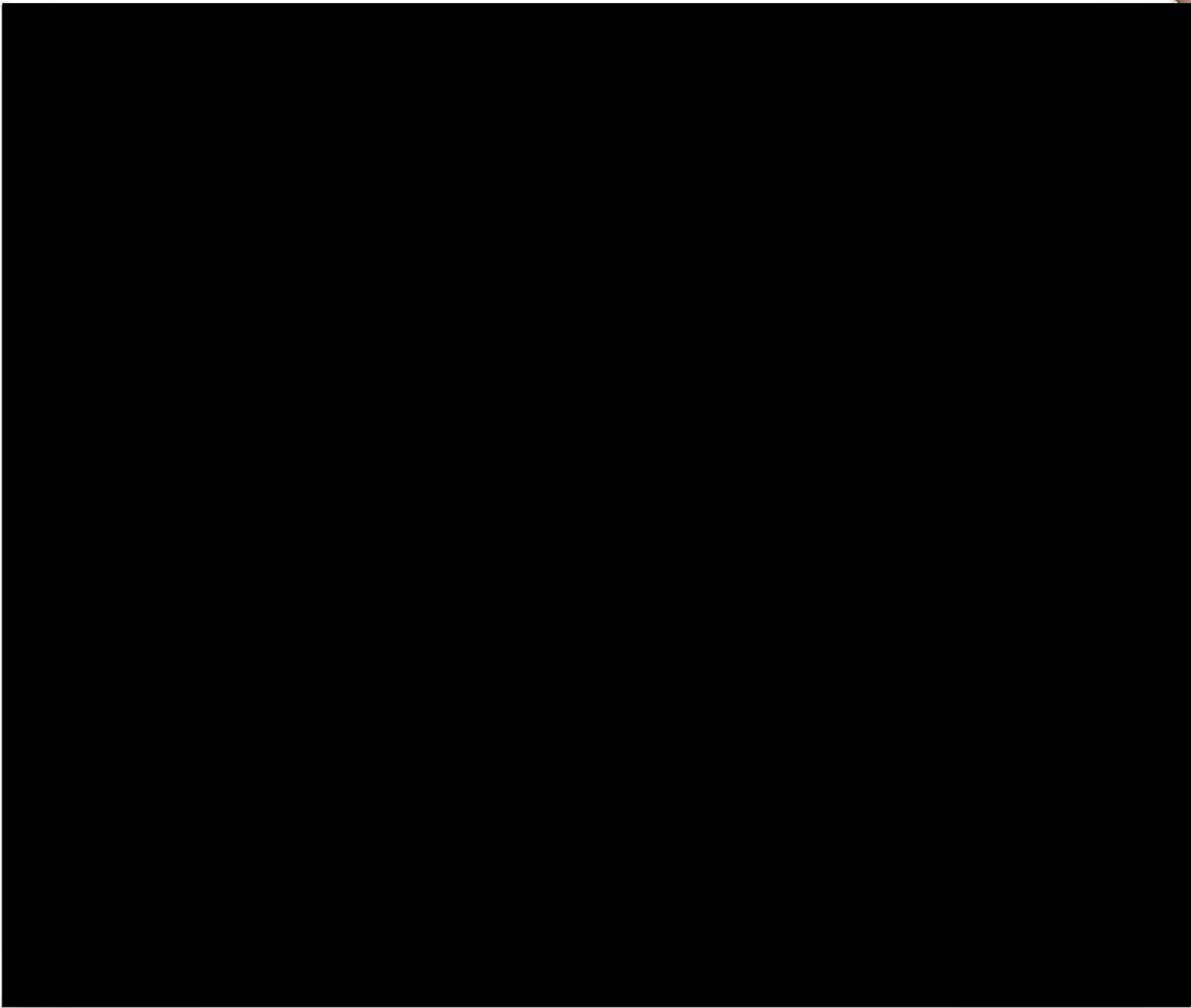


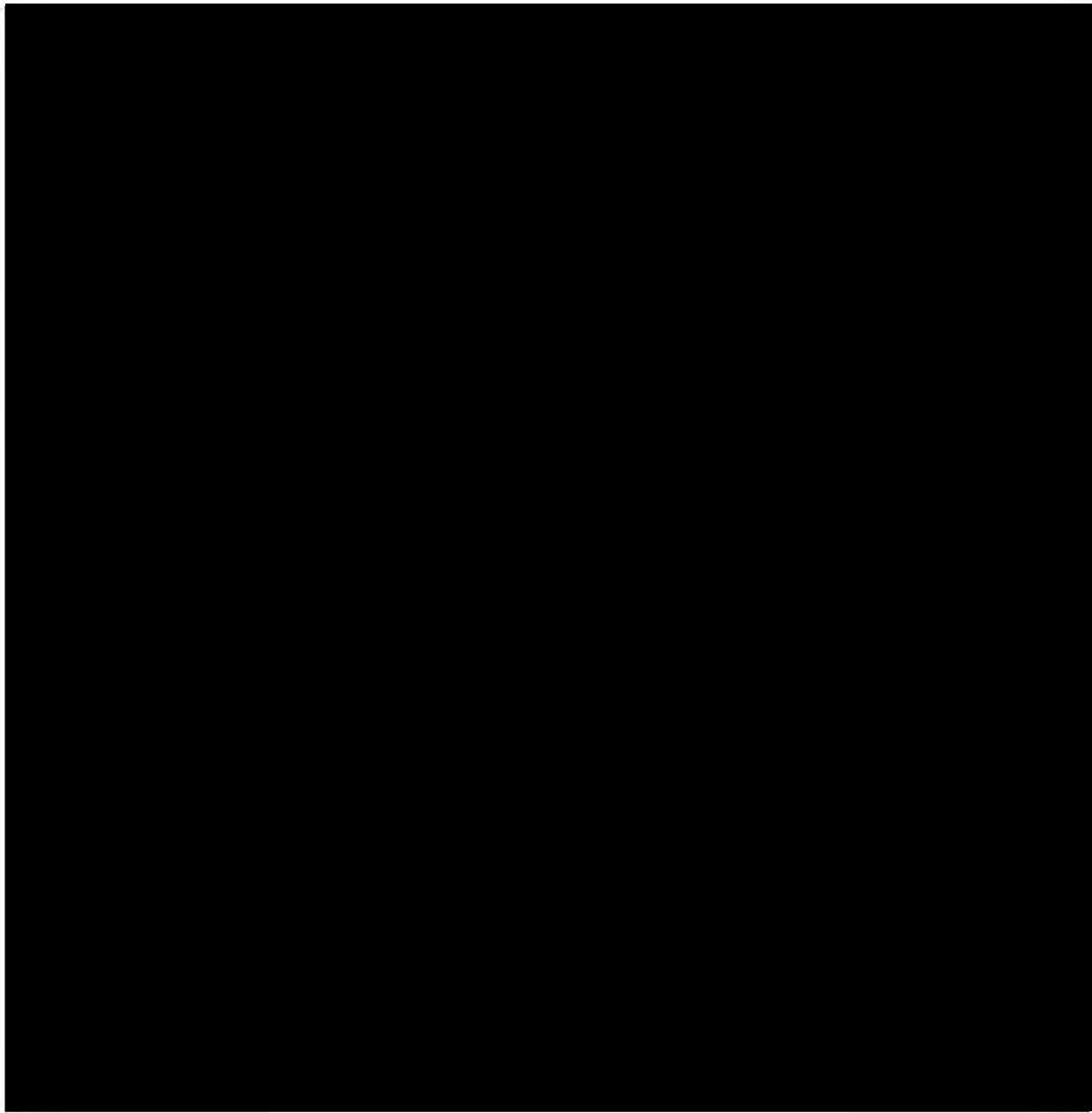


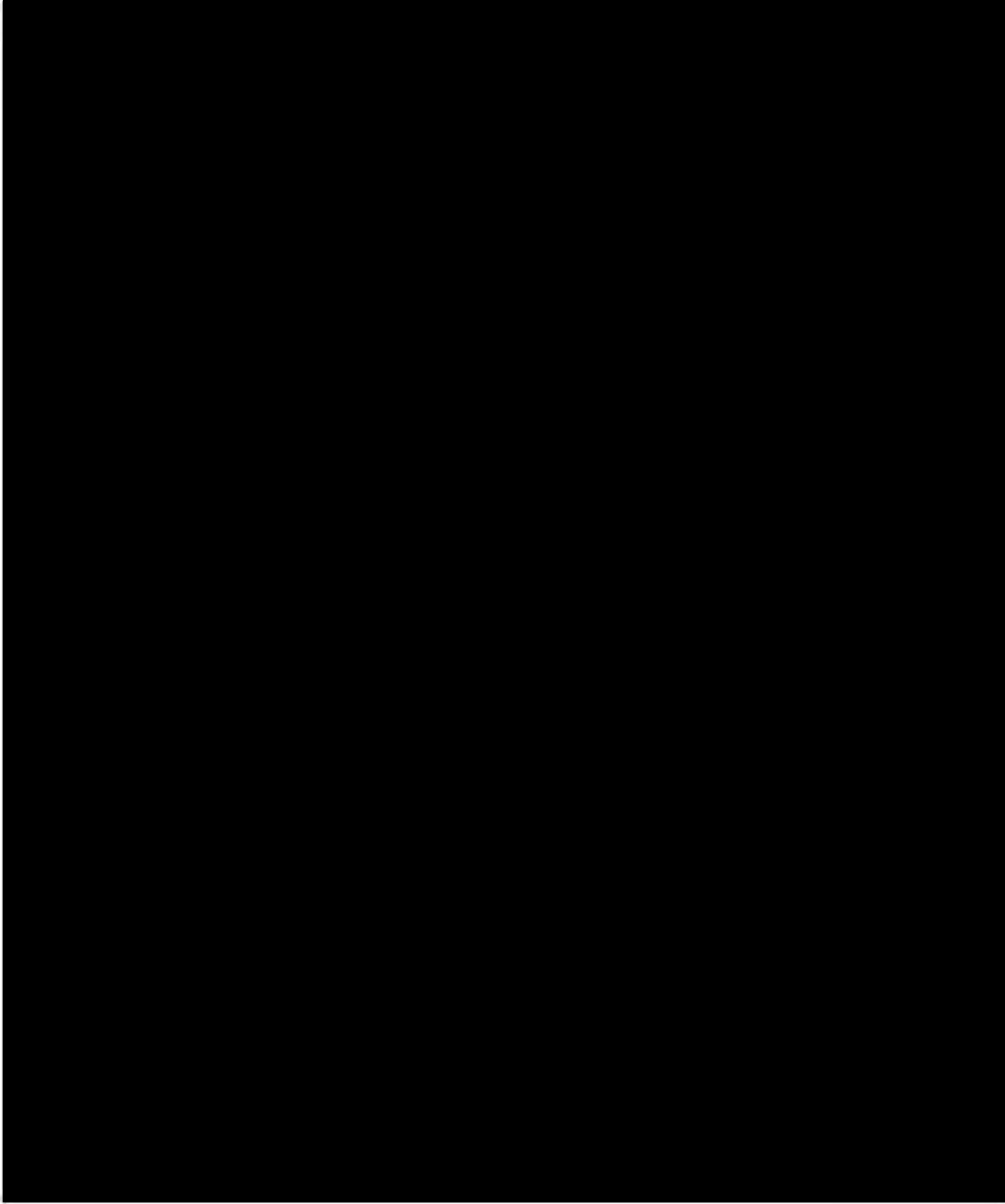


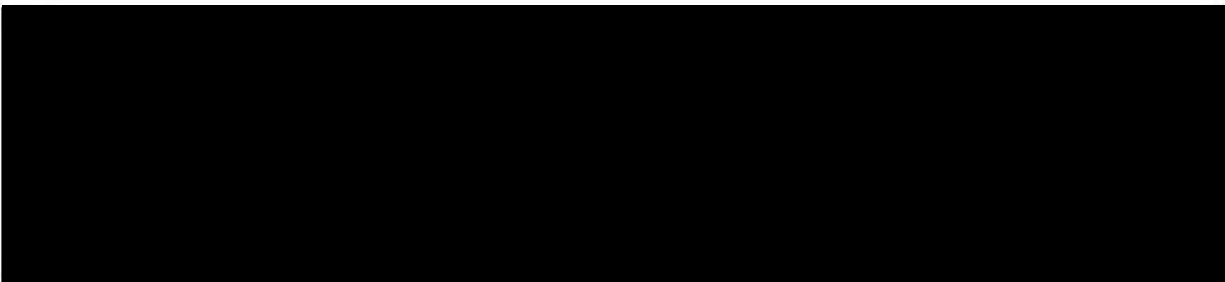






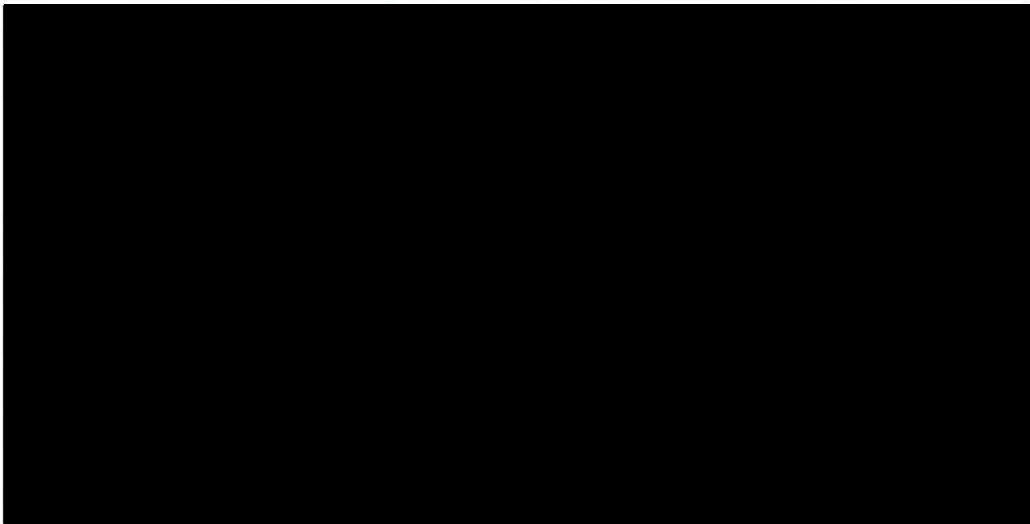






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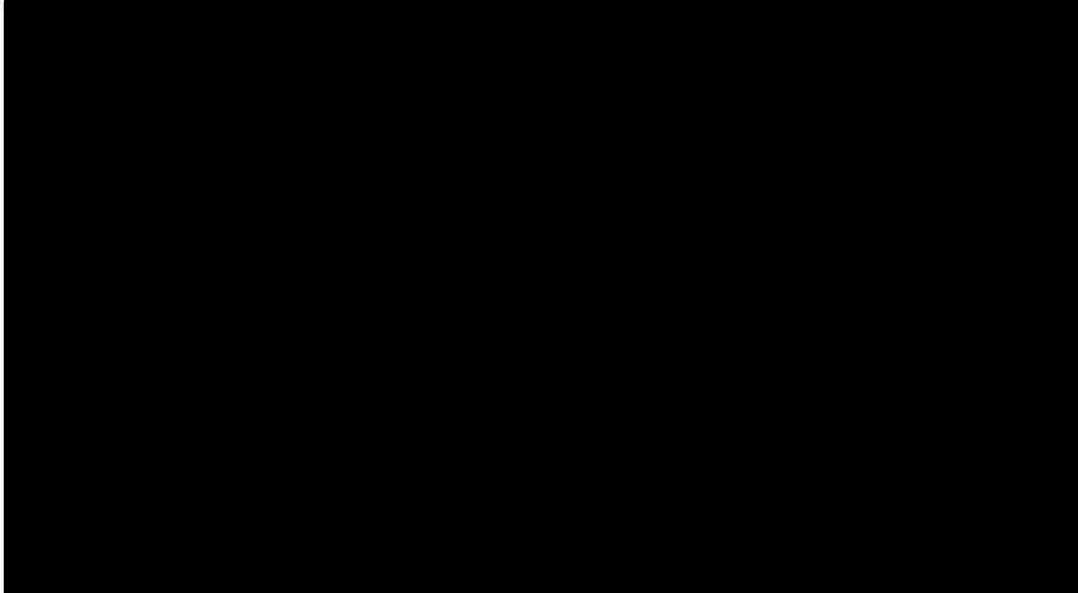
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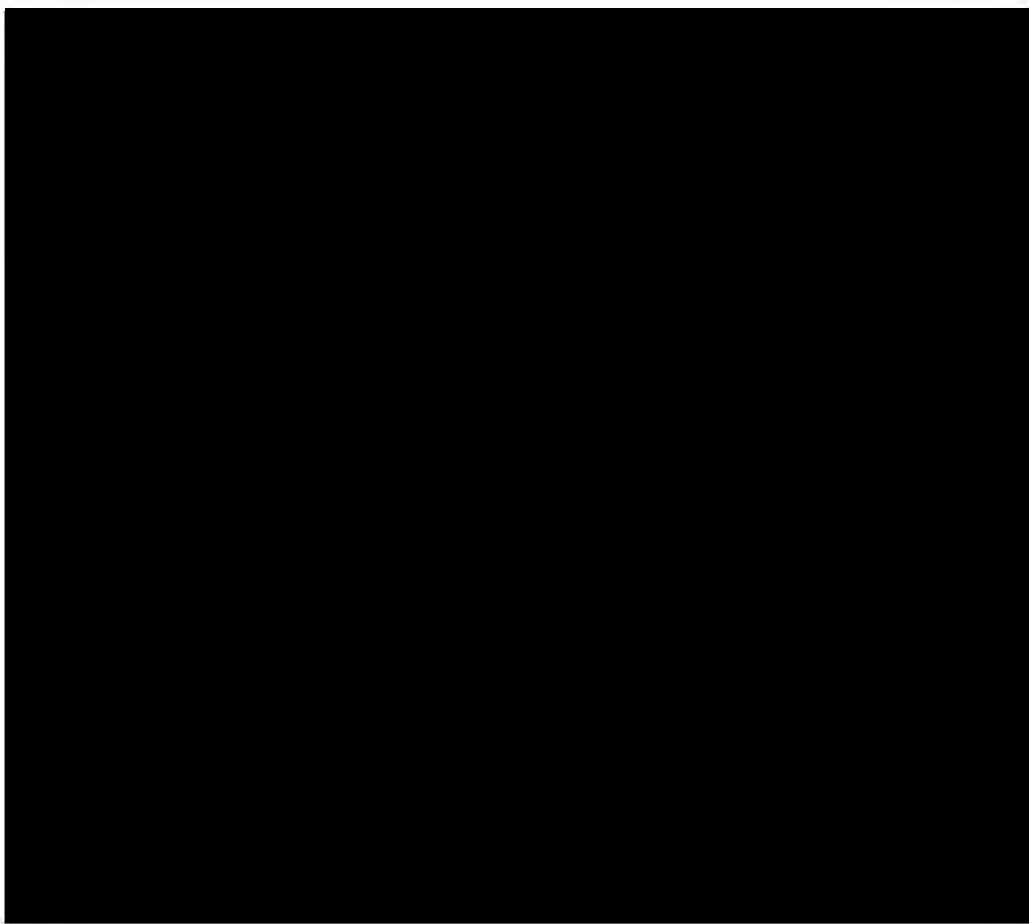
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Executed on: September __, 2018
Parkland, Florida

By: Alan S Willner

Alan S. Willner

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Date registered: February 17, 1981

AND

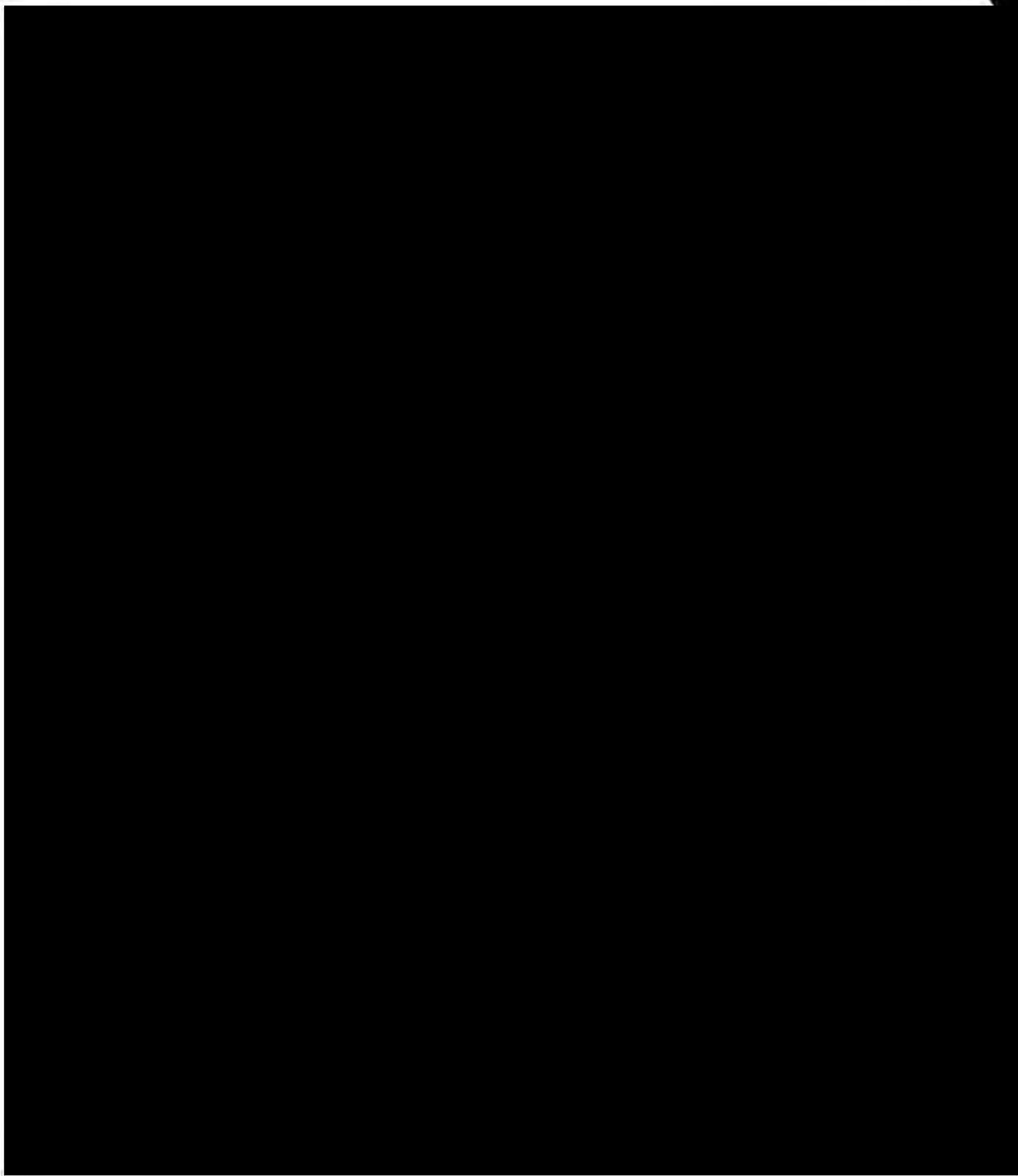
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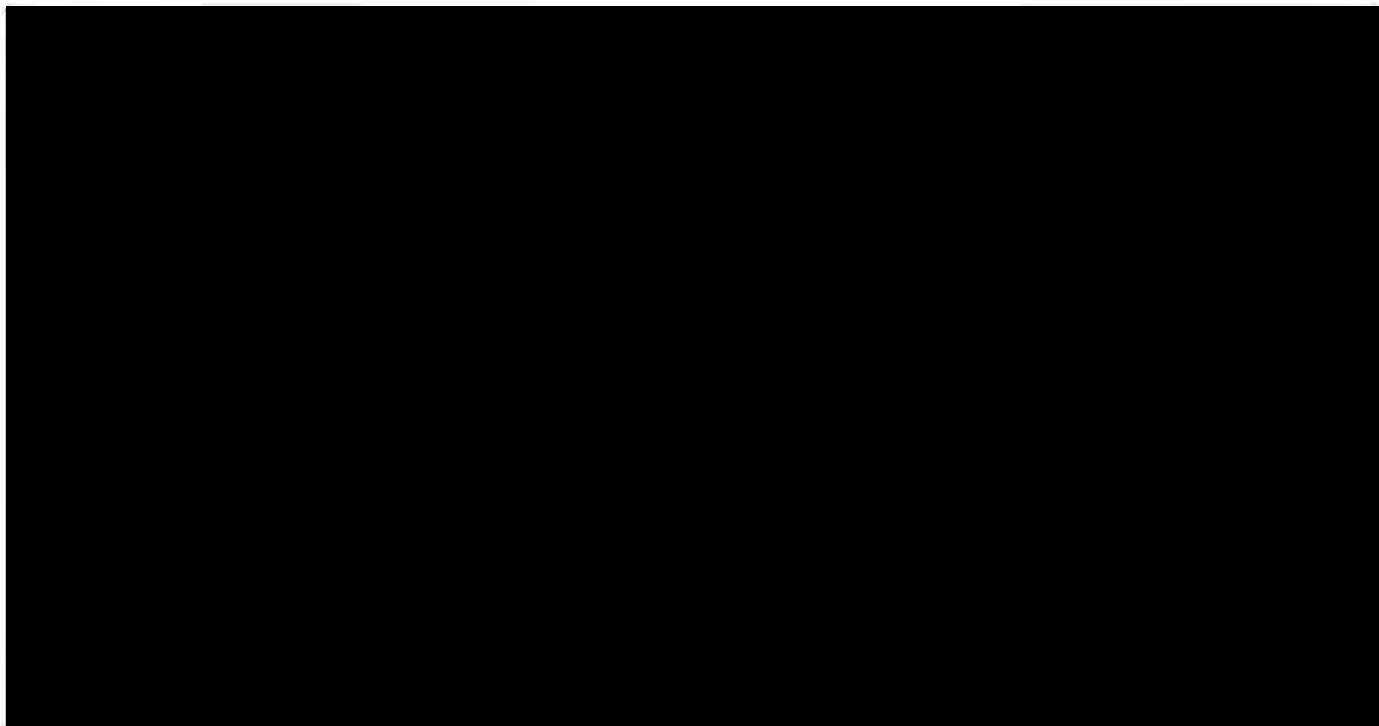
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	Cancellation No. 92025859
	:	
v.	:	
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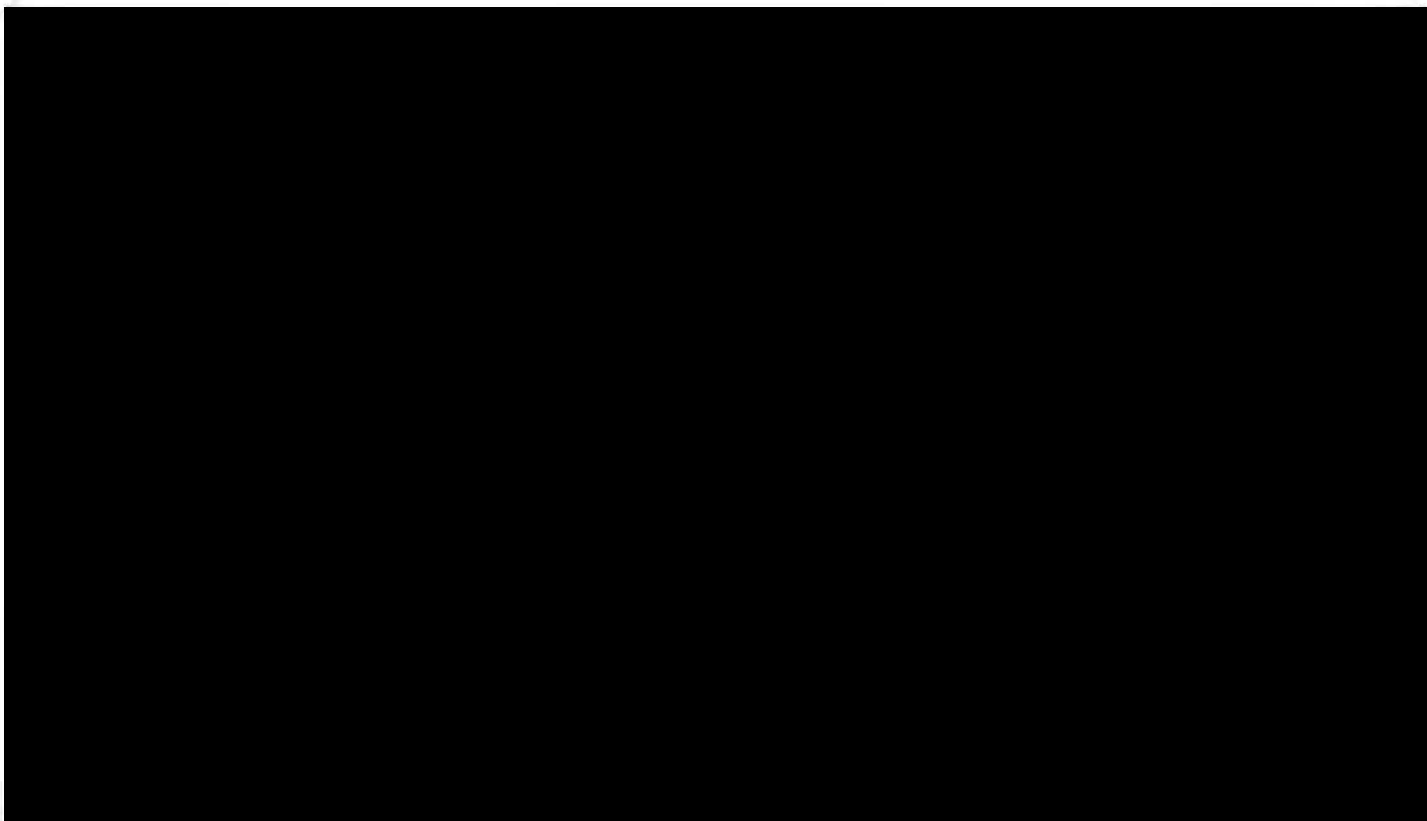
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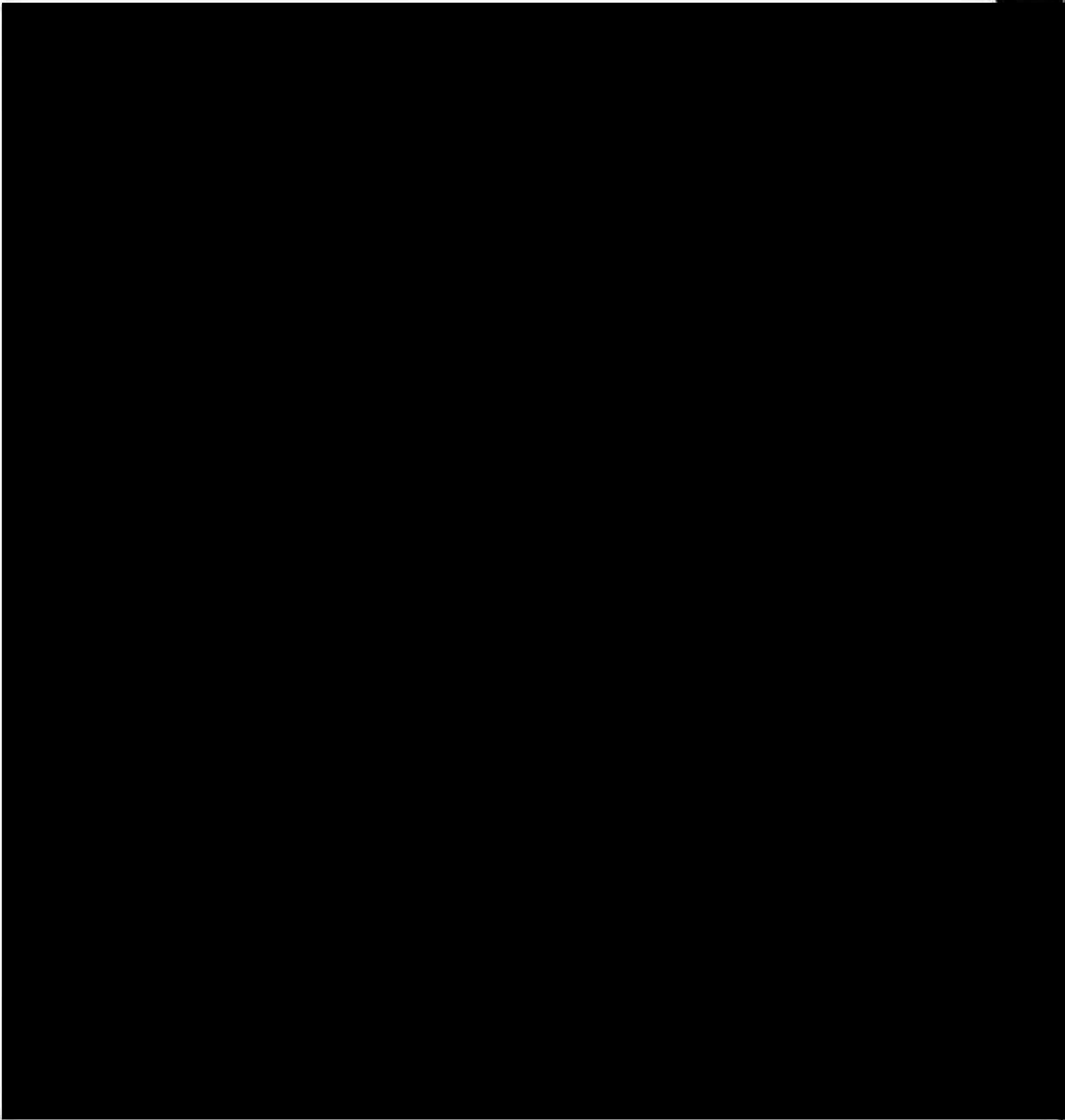


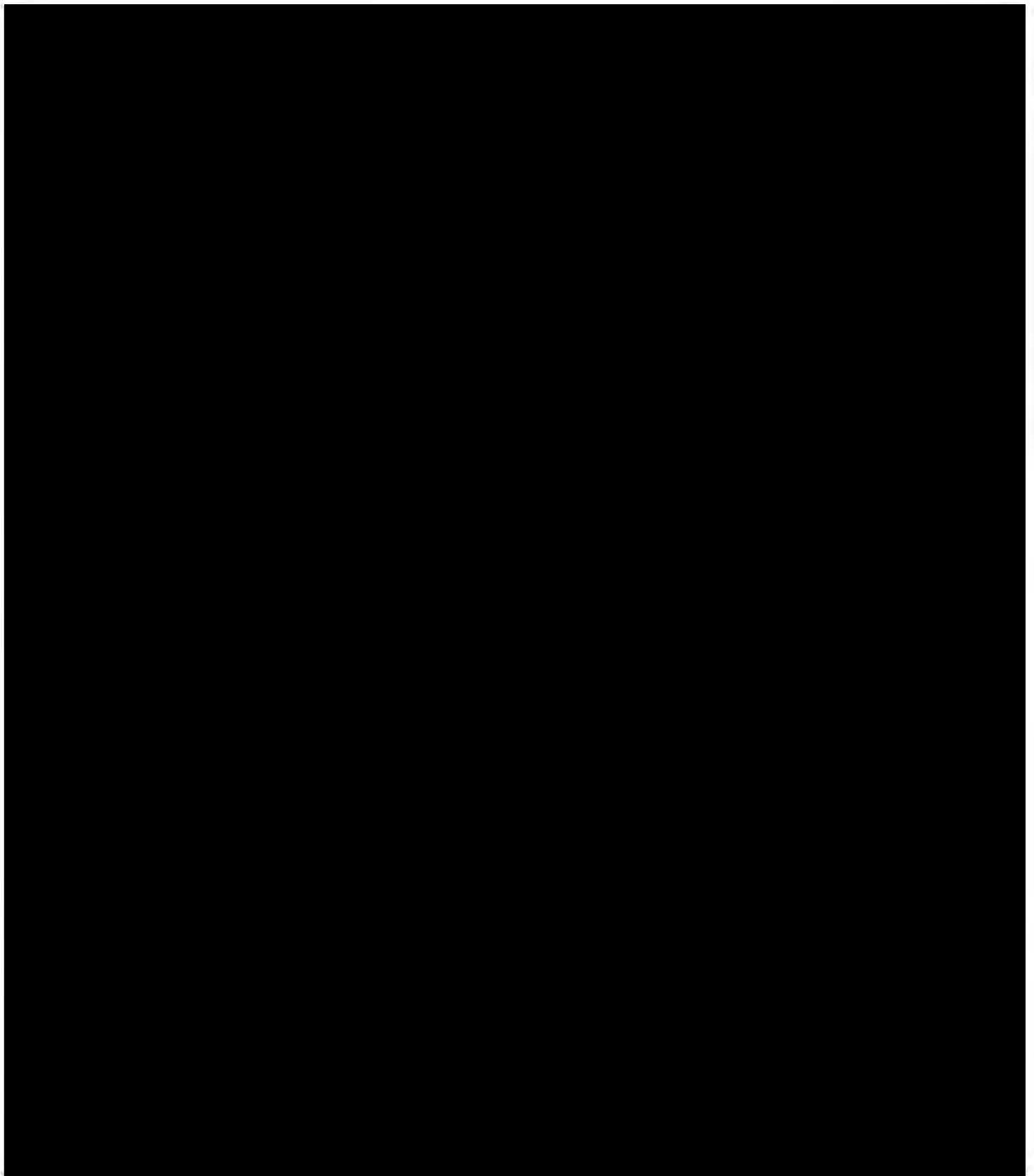


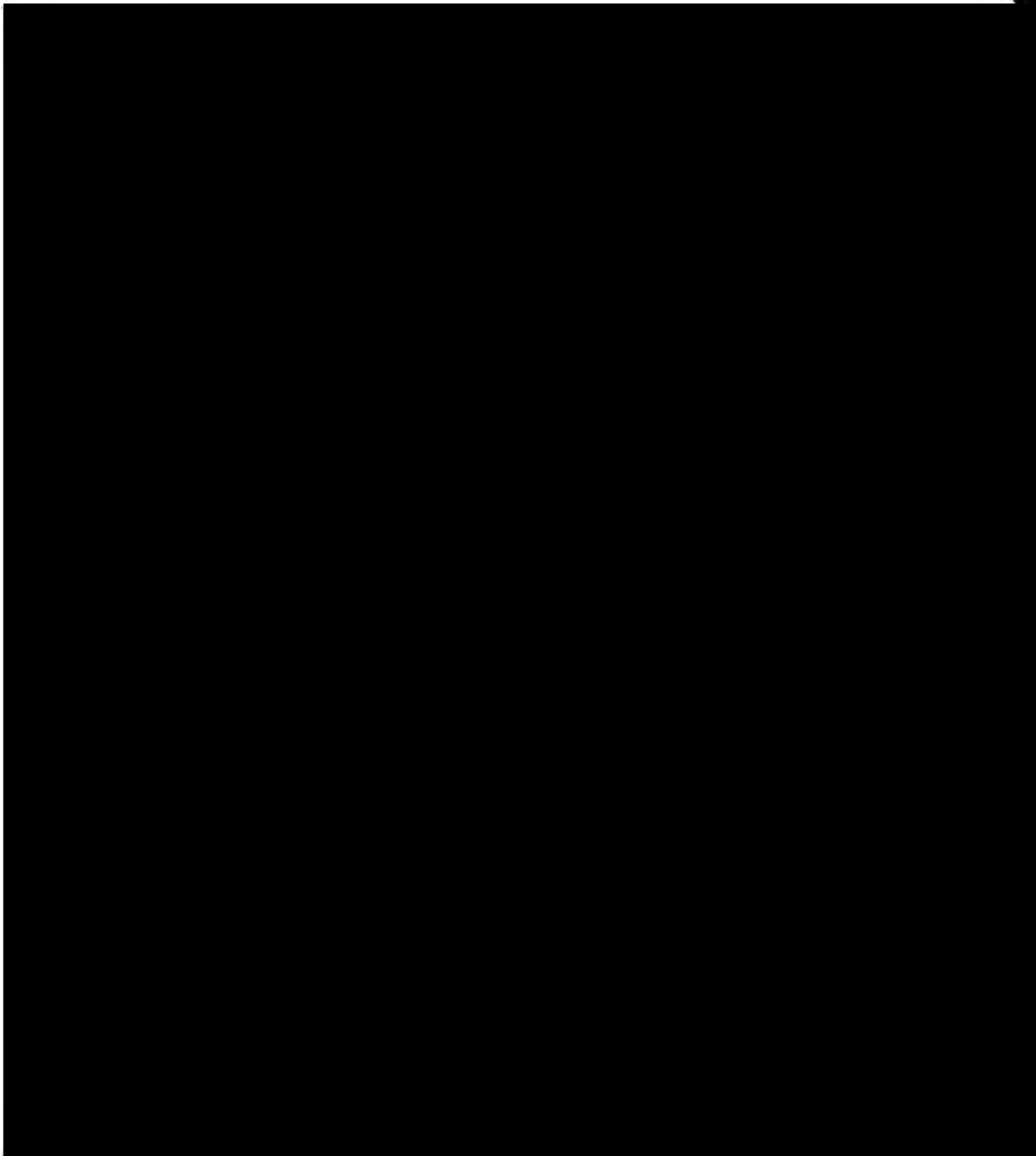
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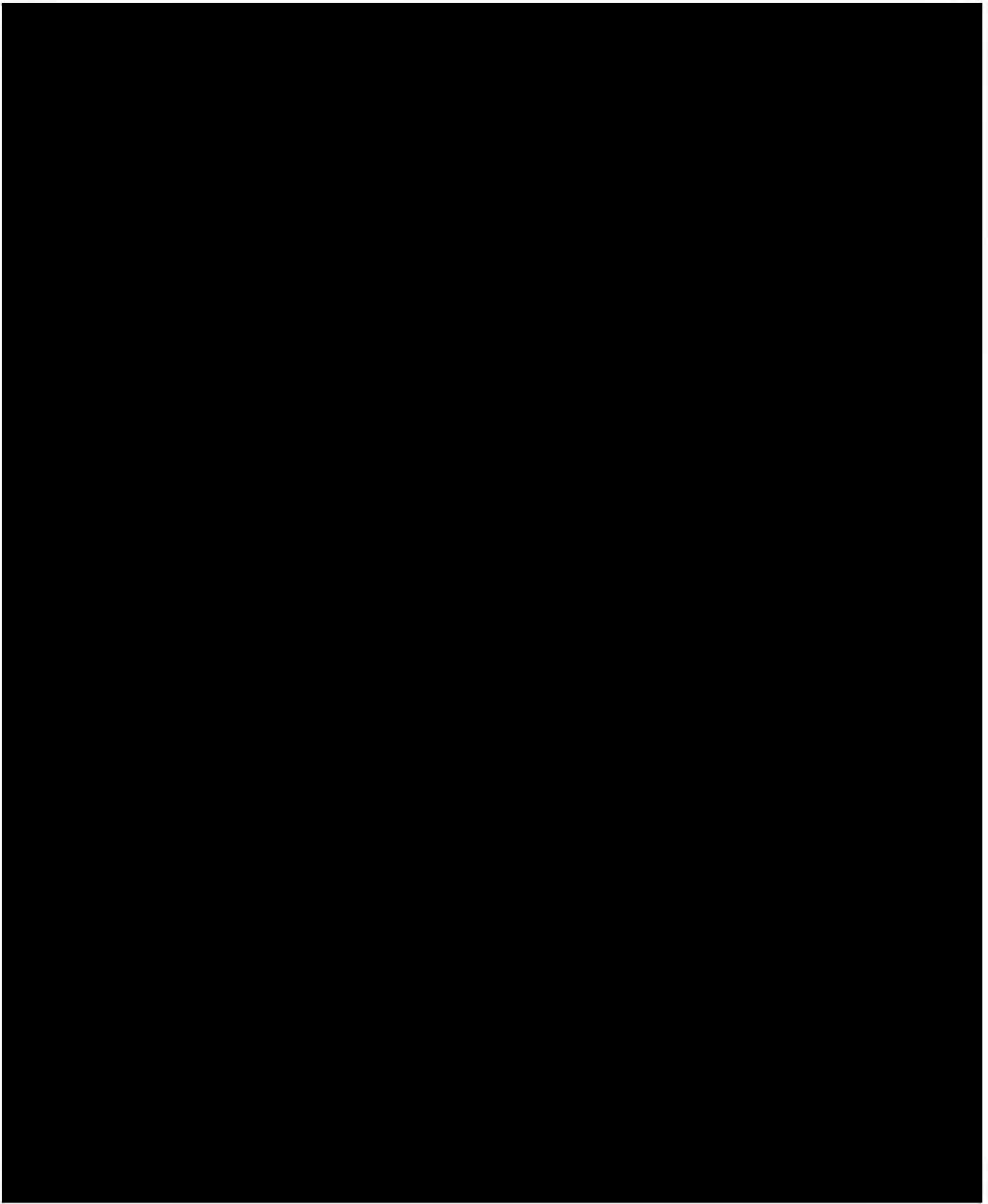
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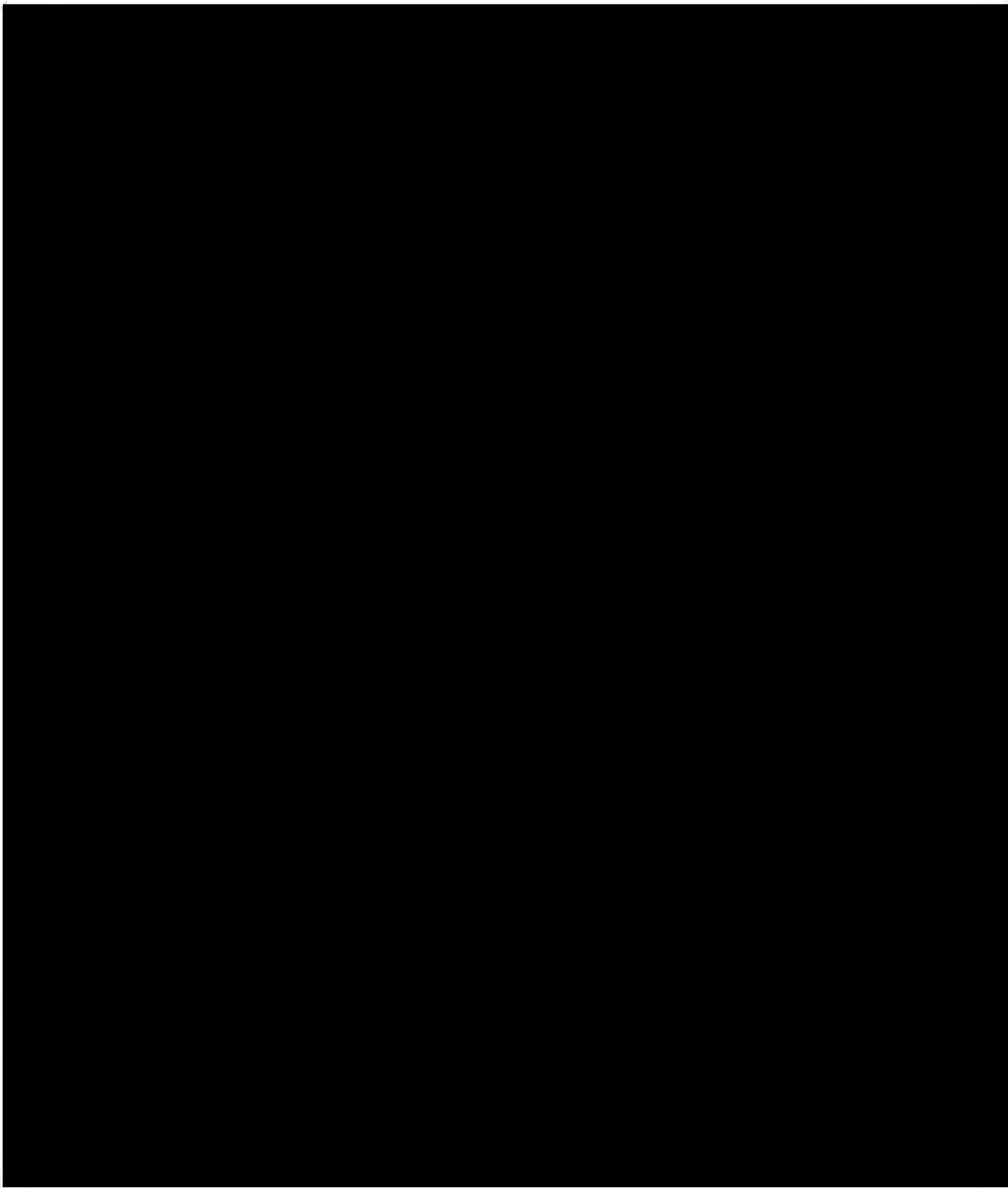


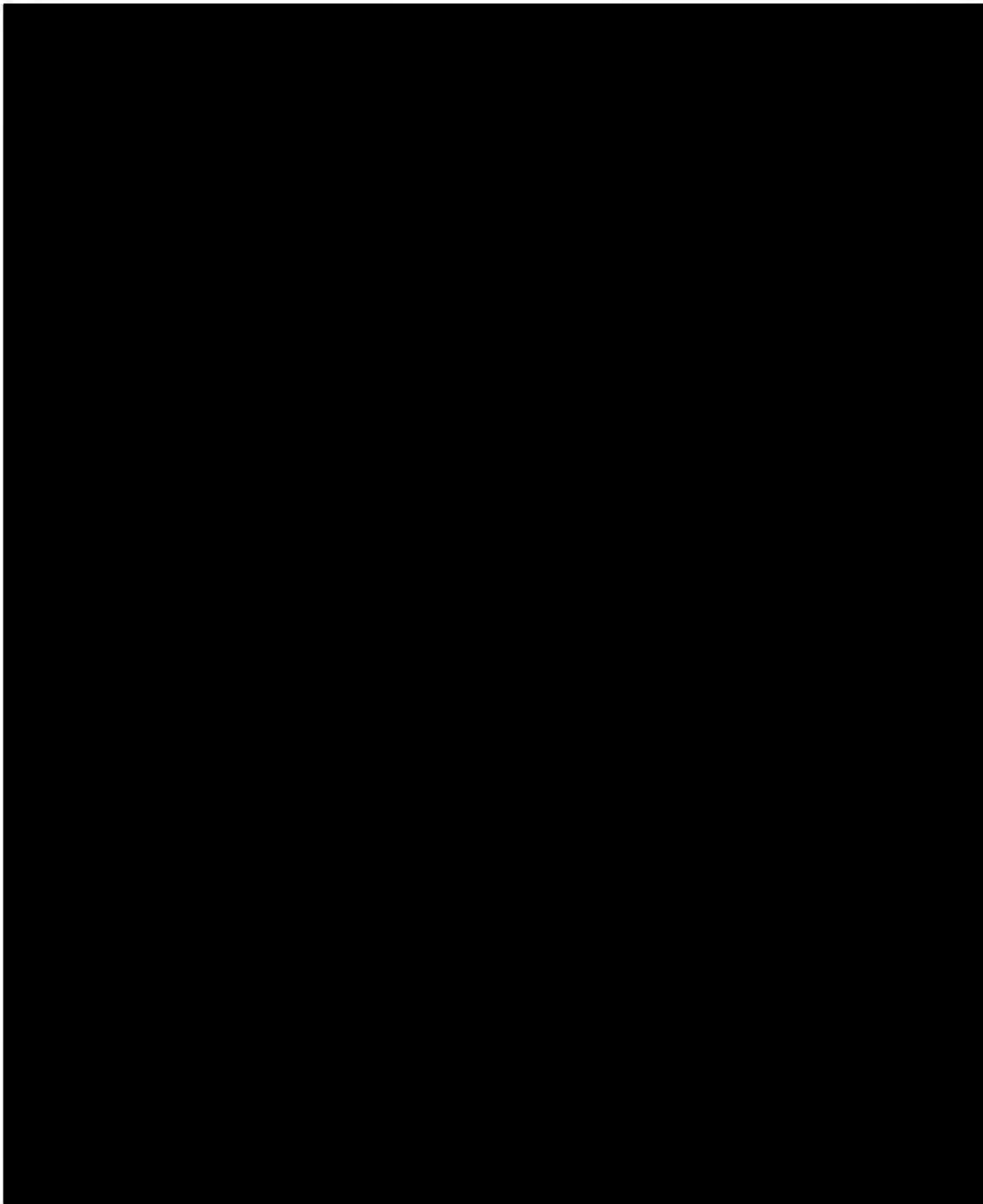


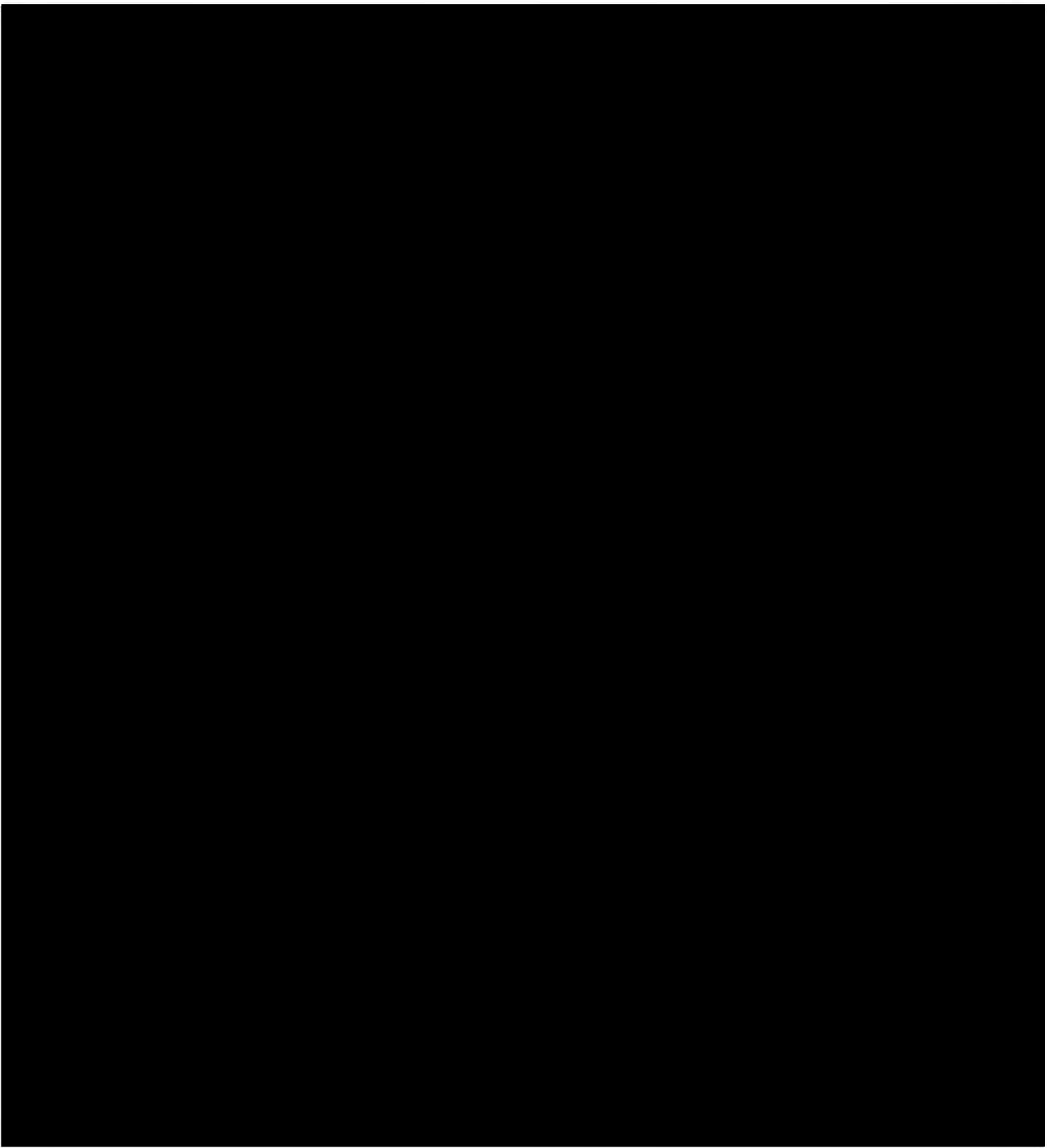


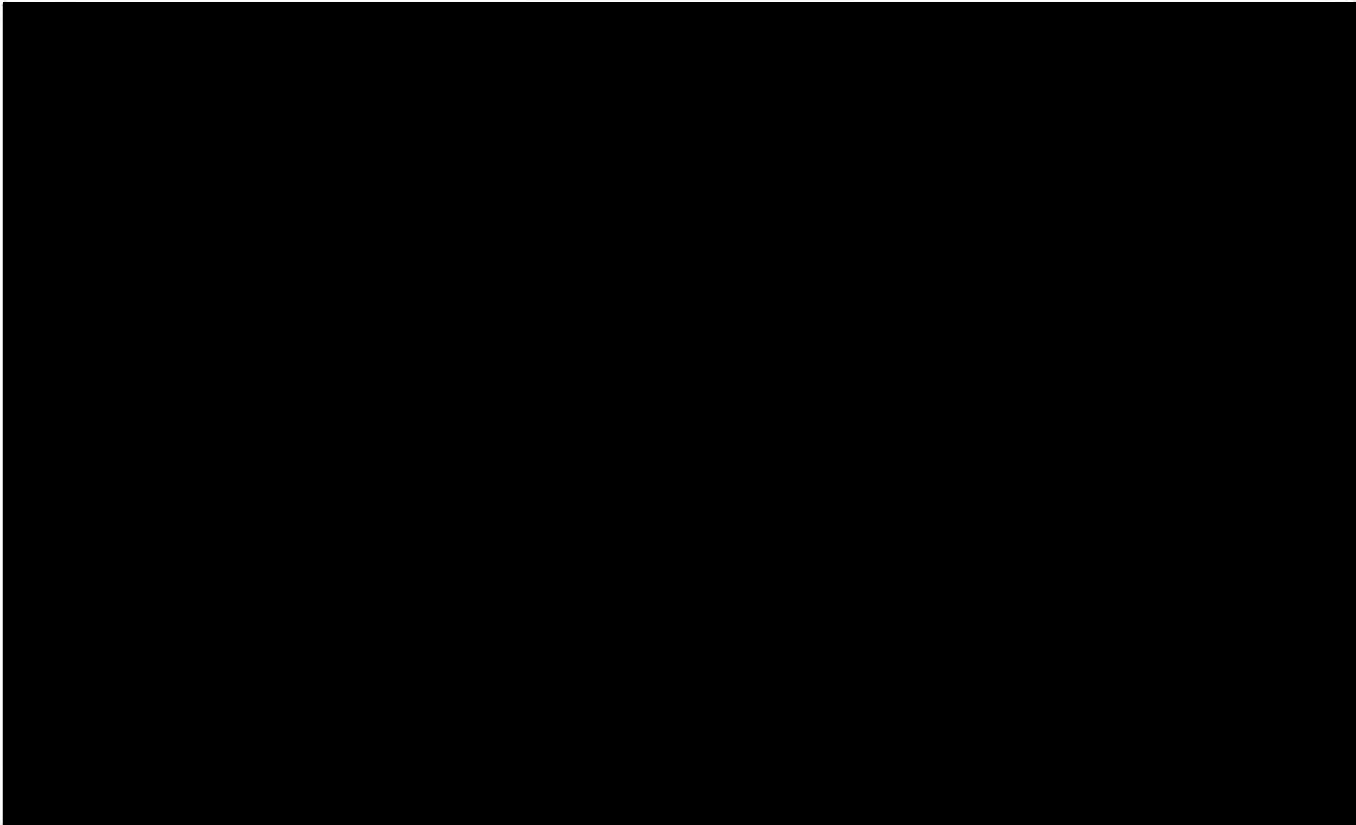






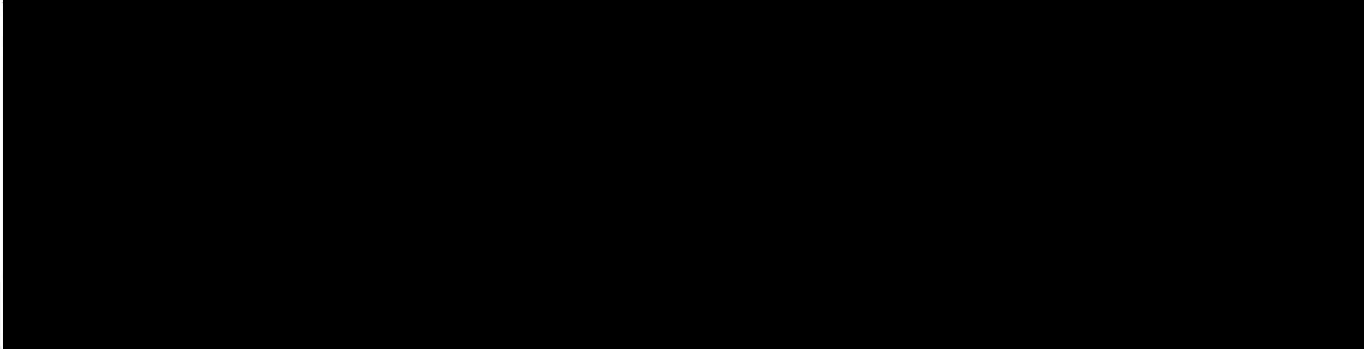






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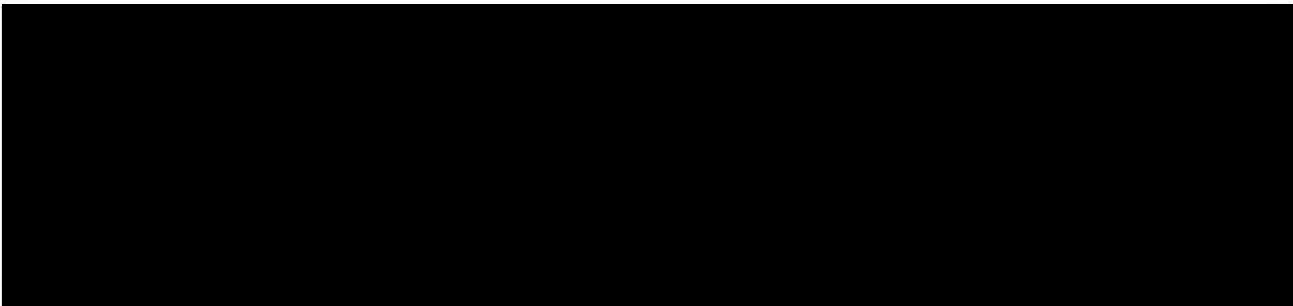
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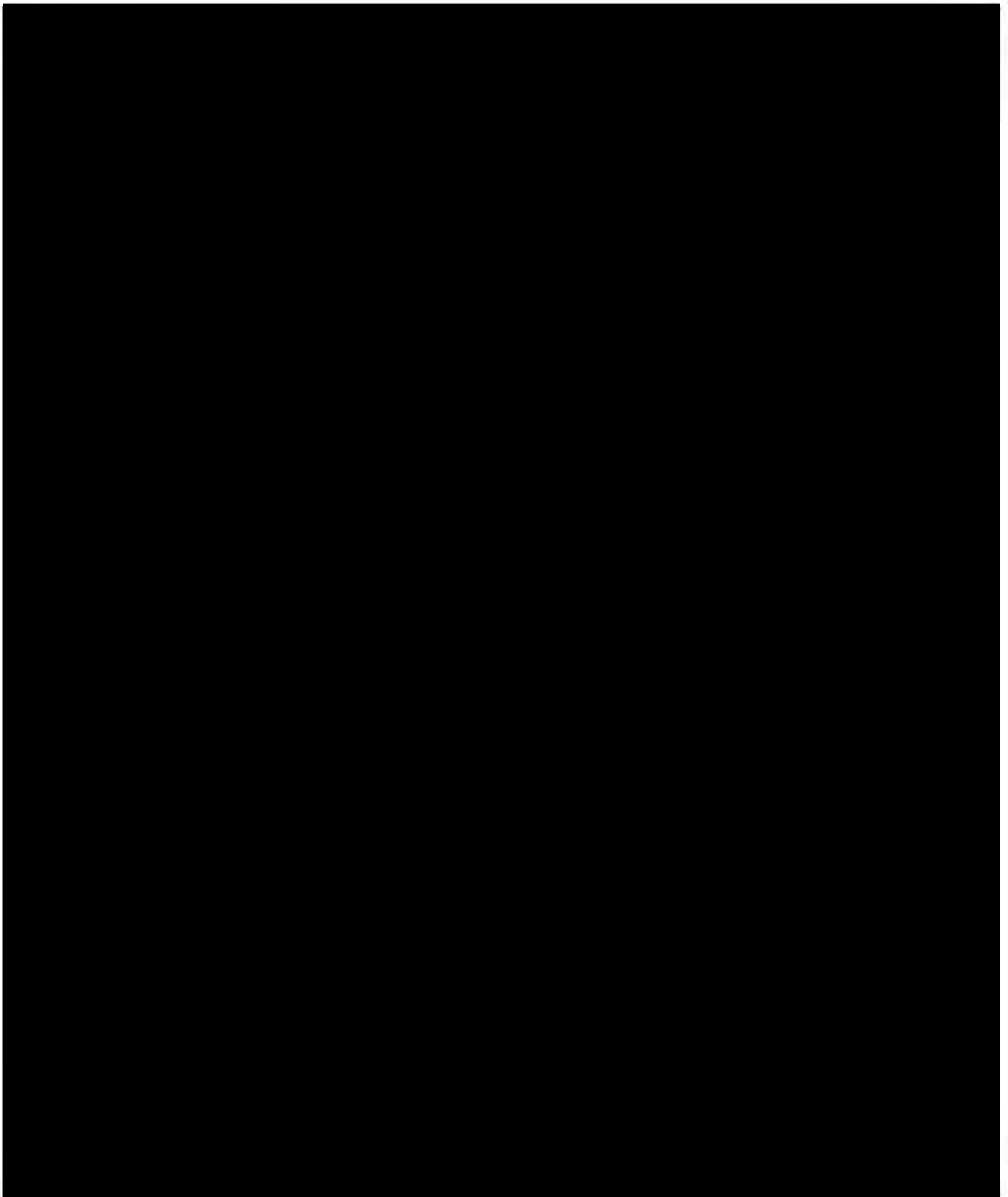
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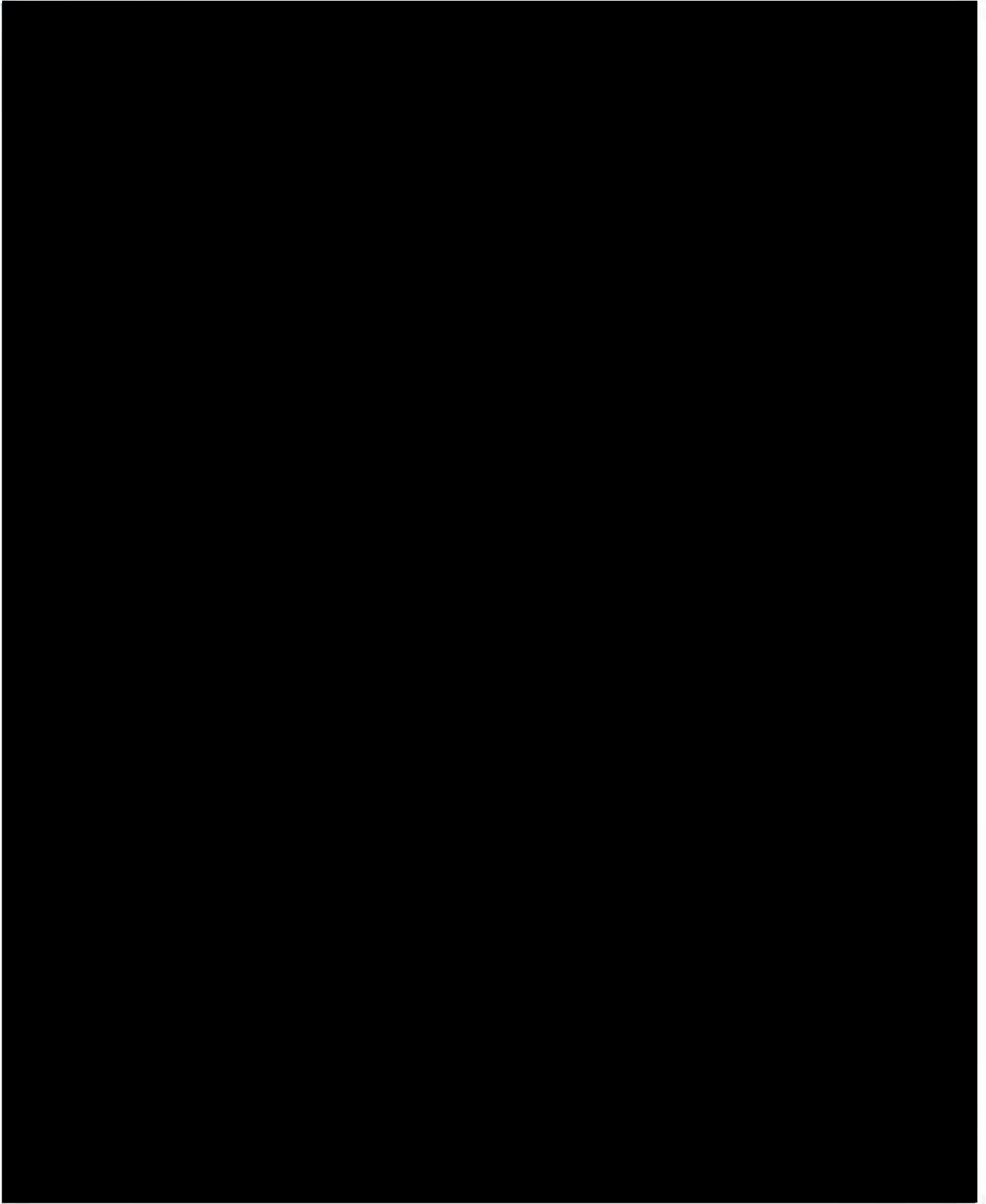
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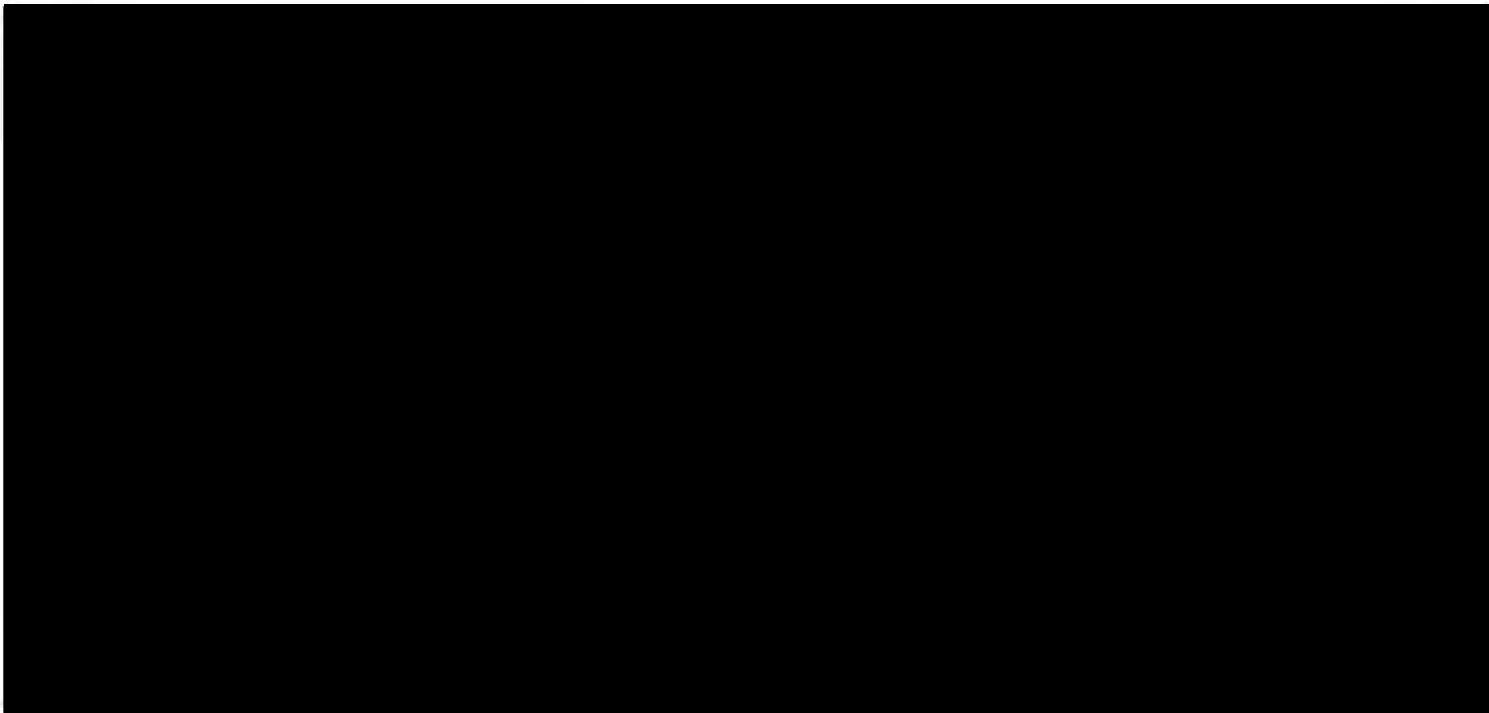
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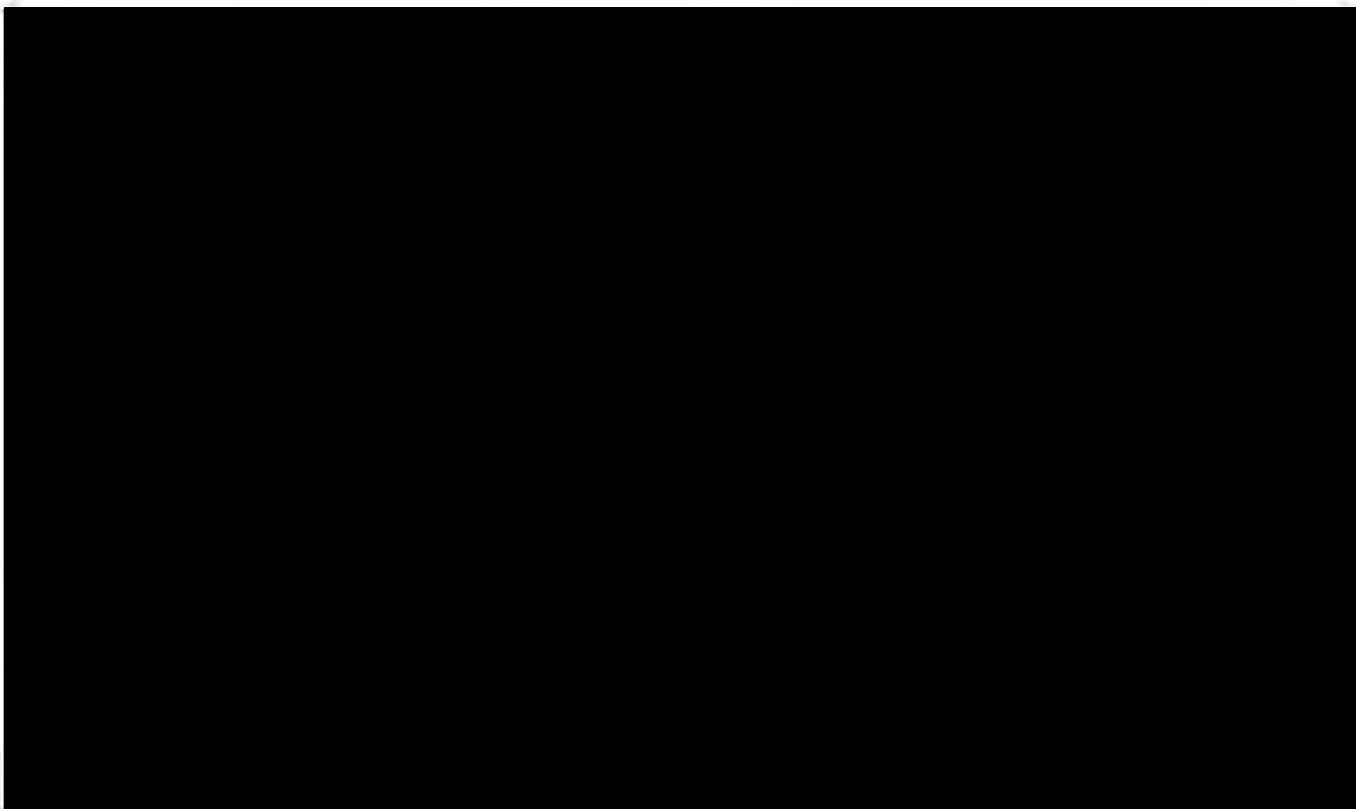
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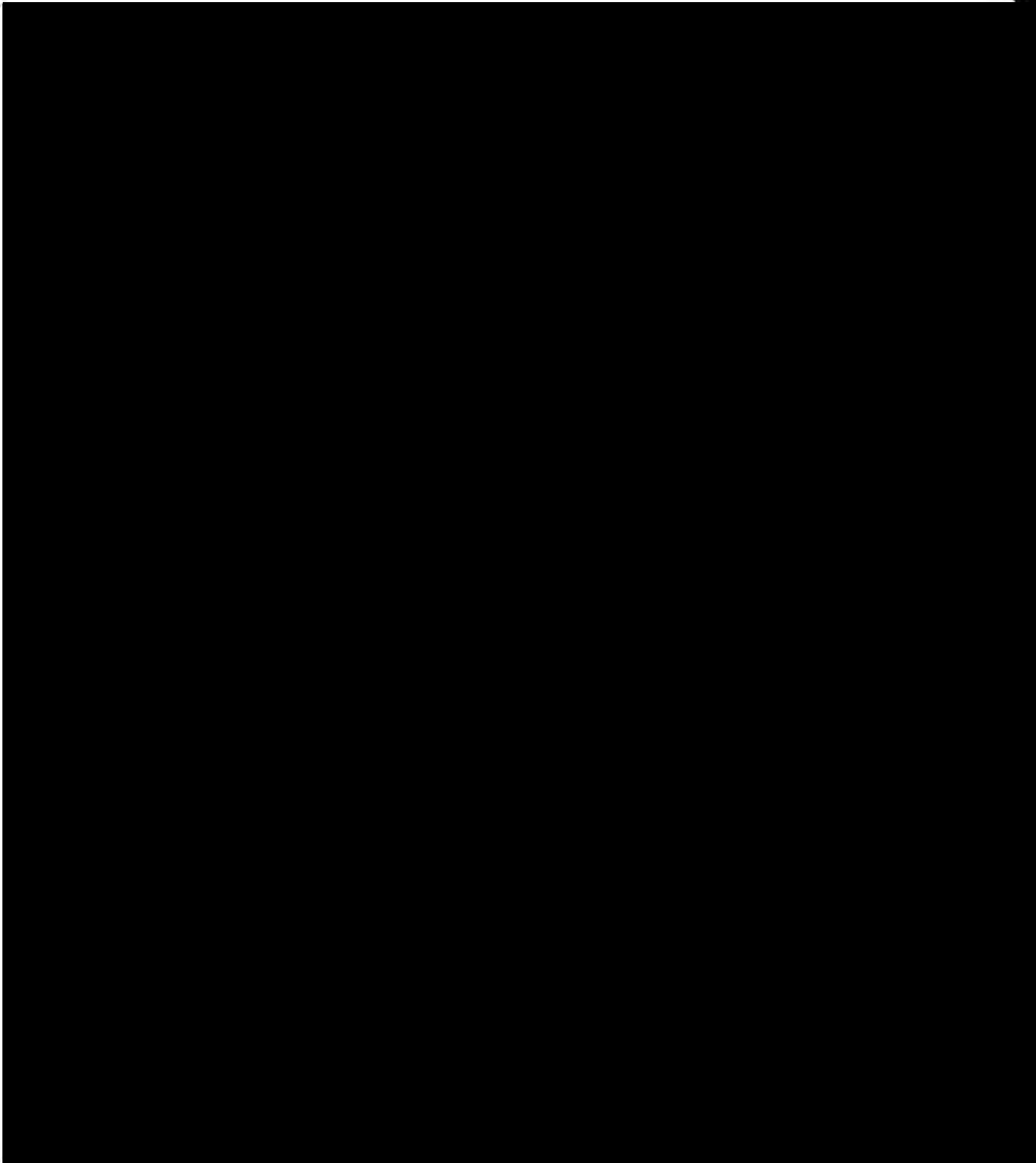


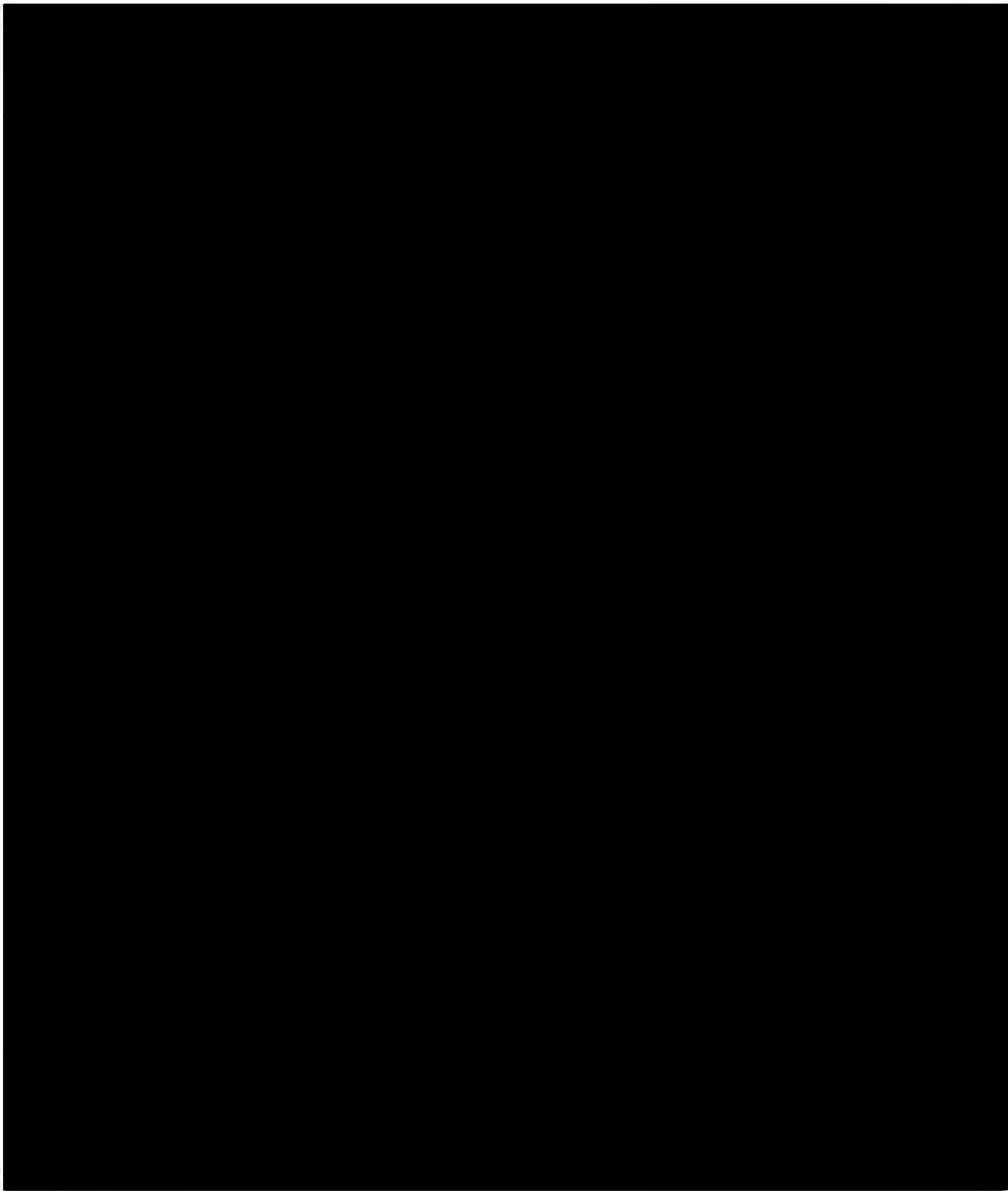


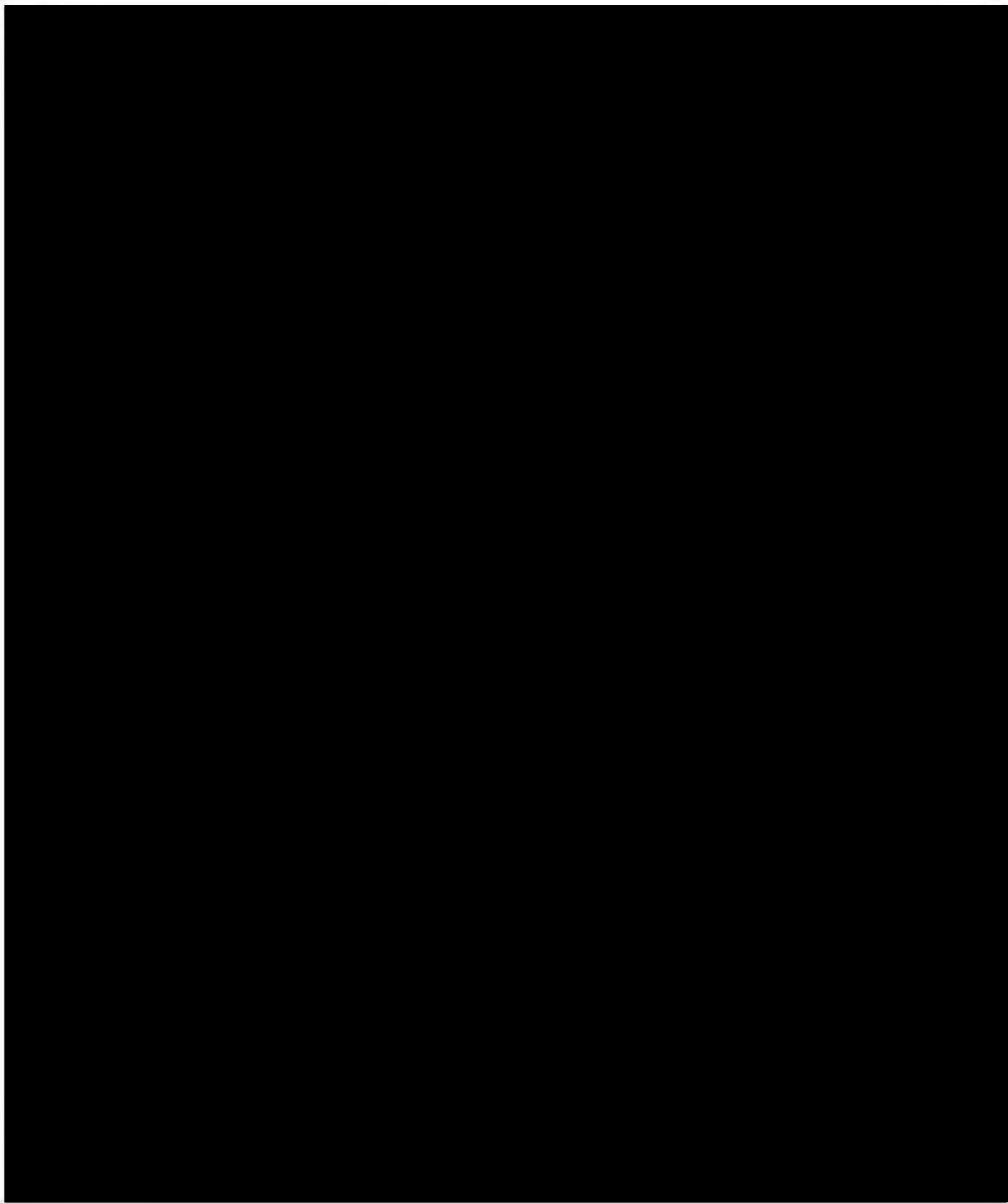
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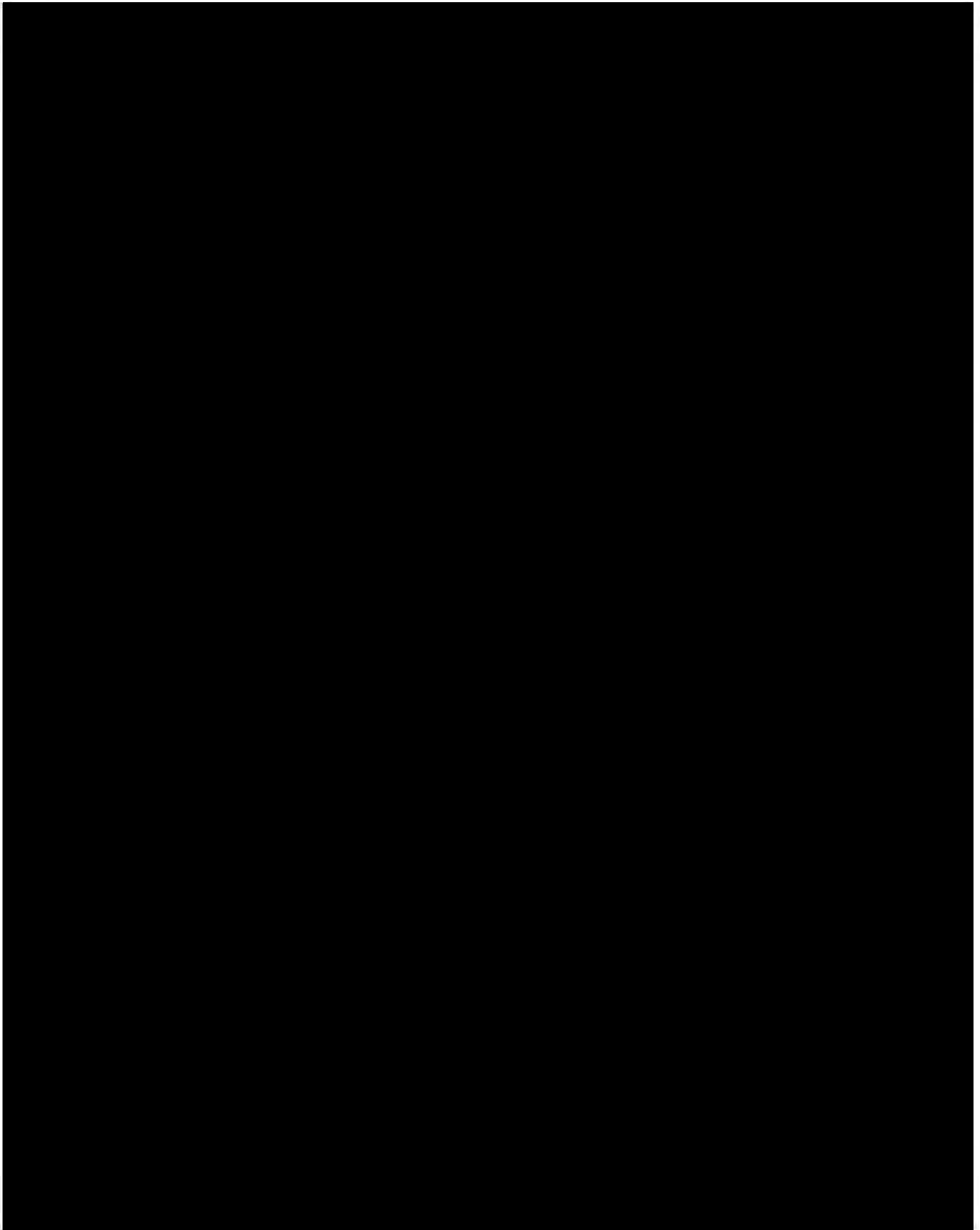
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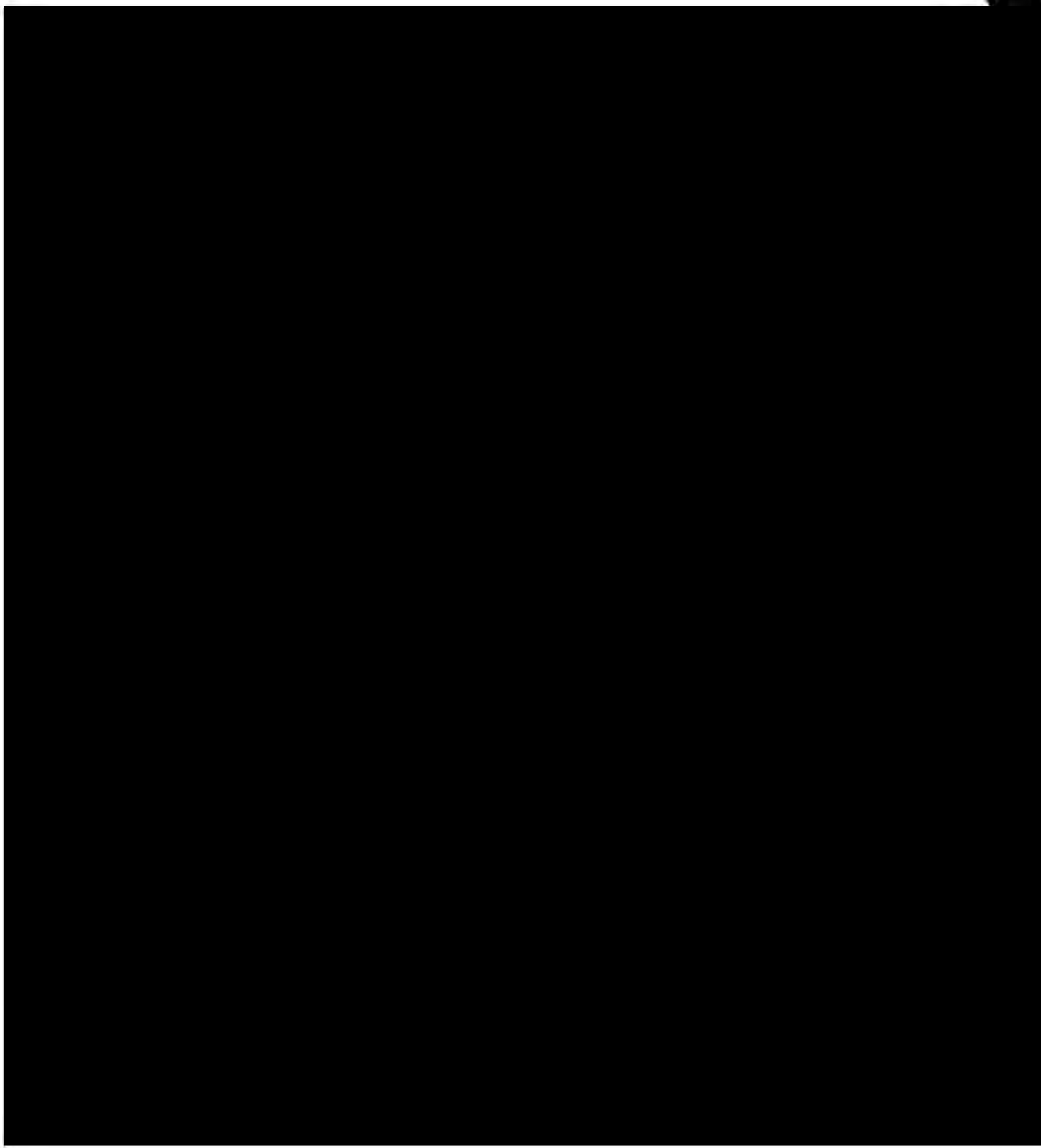


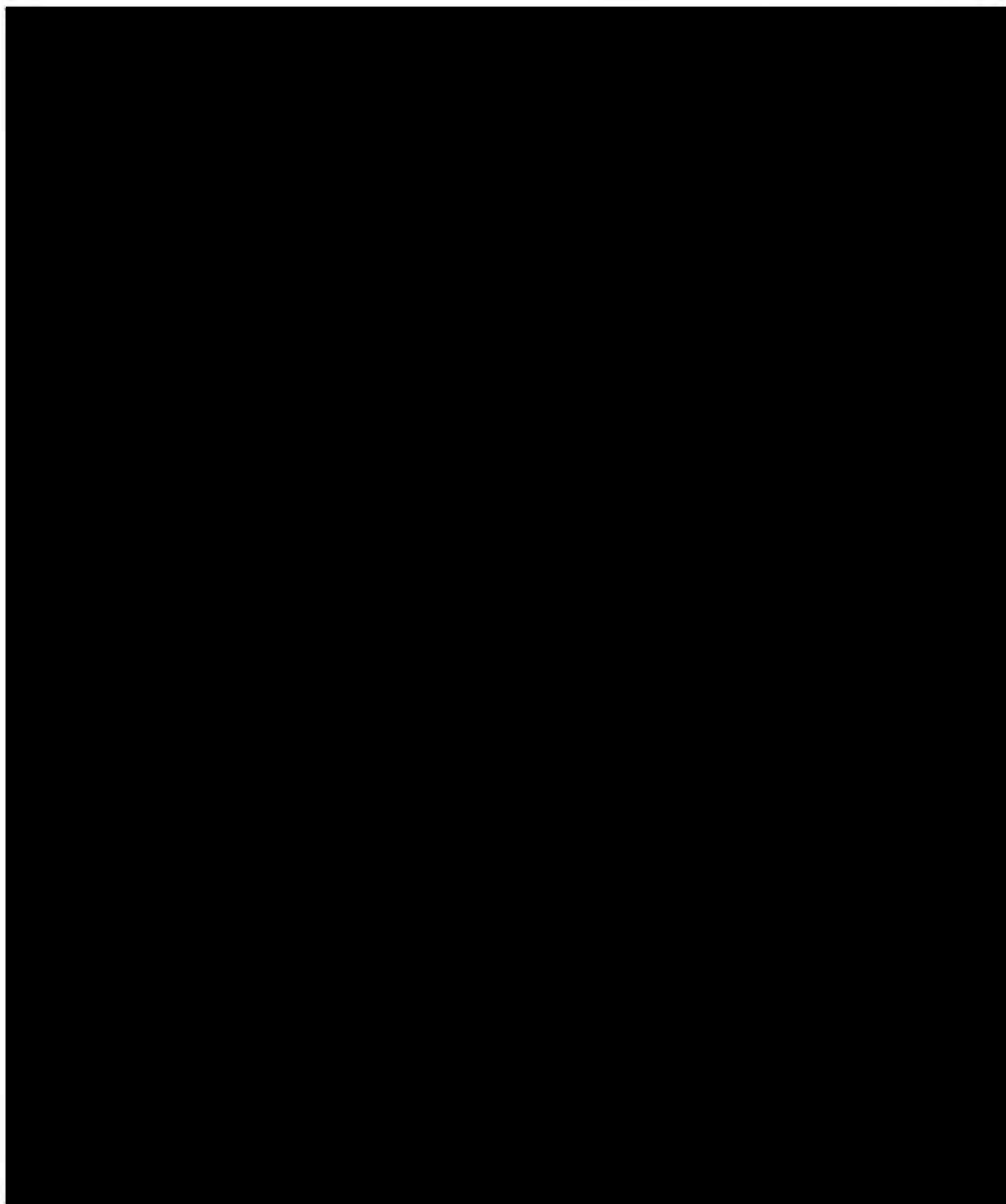


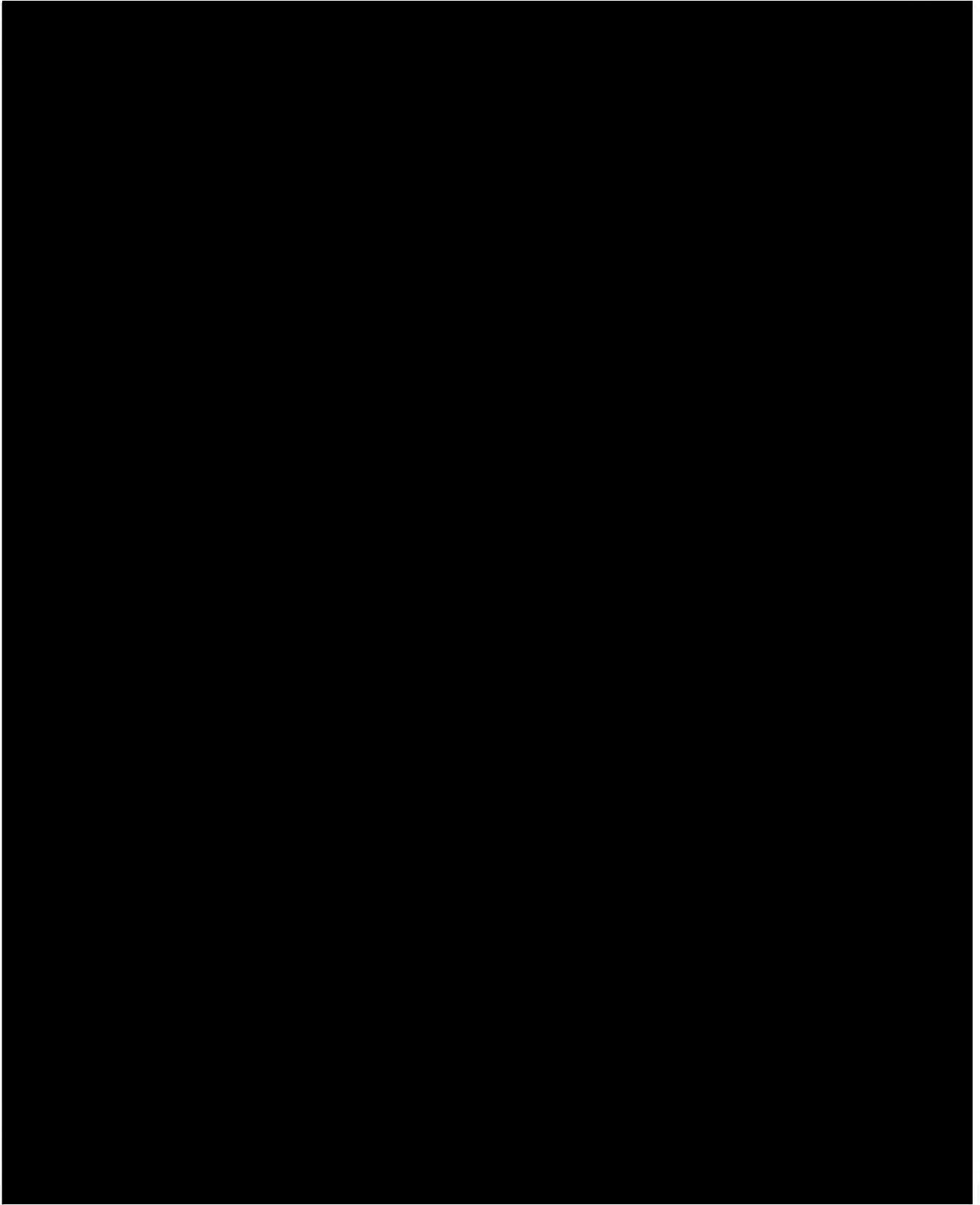


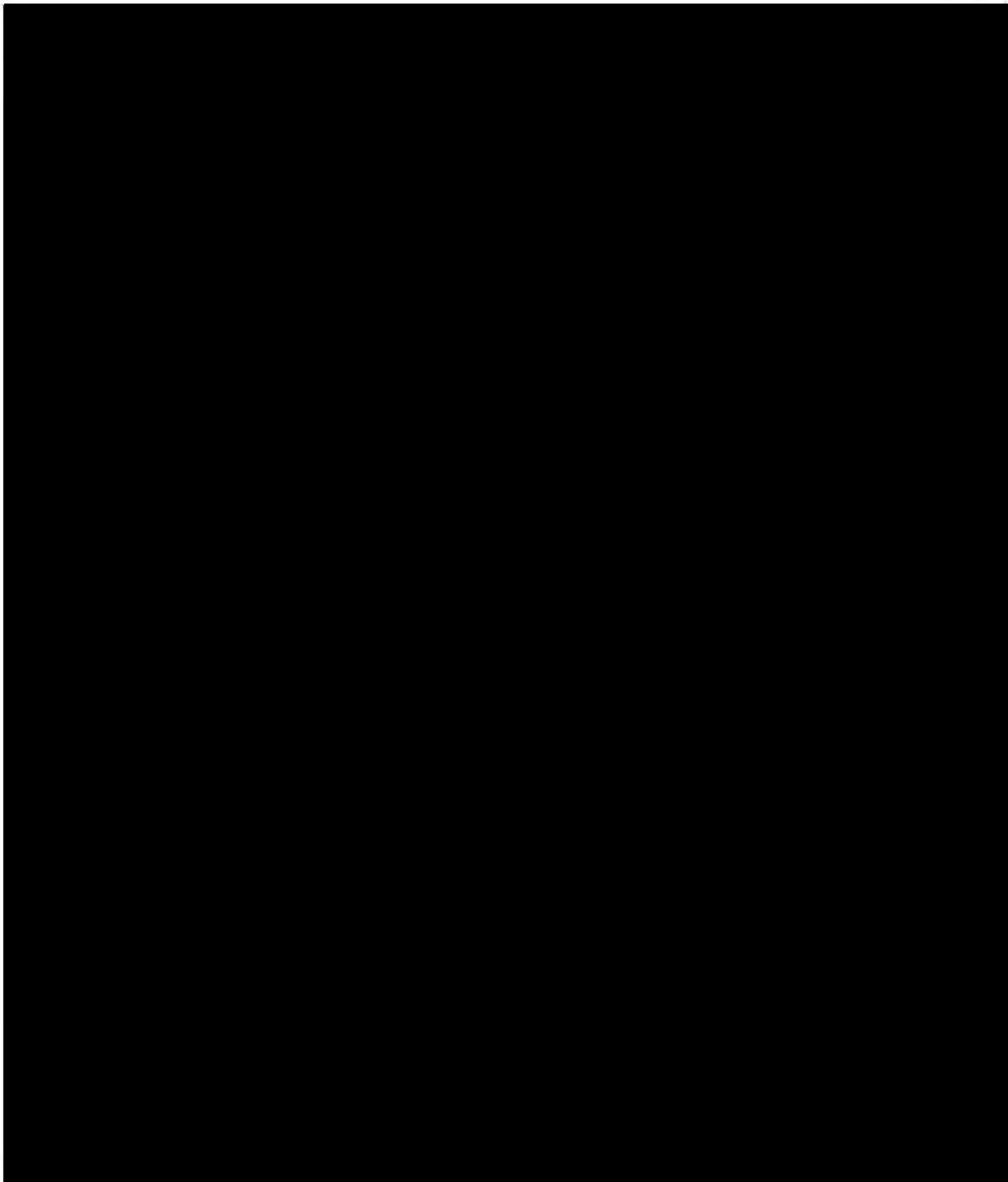


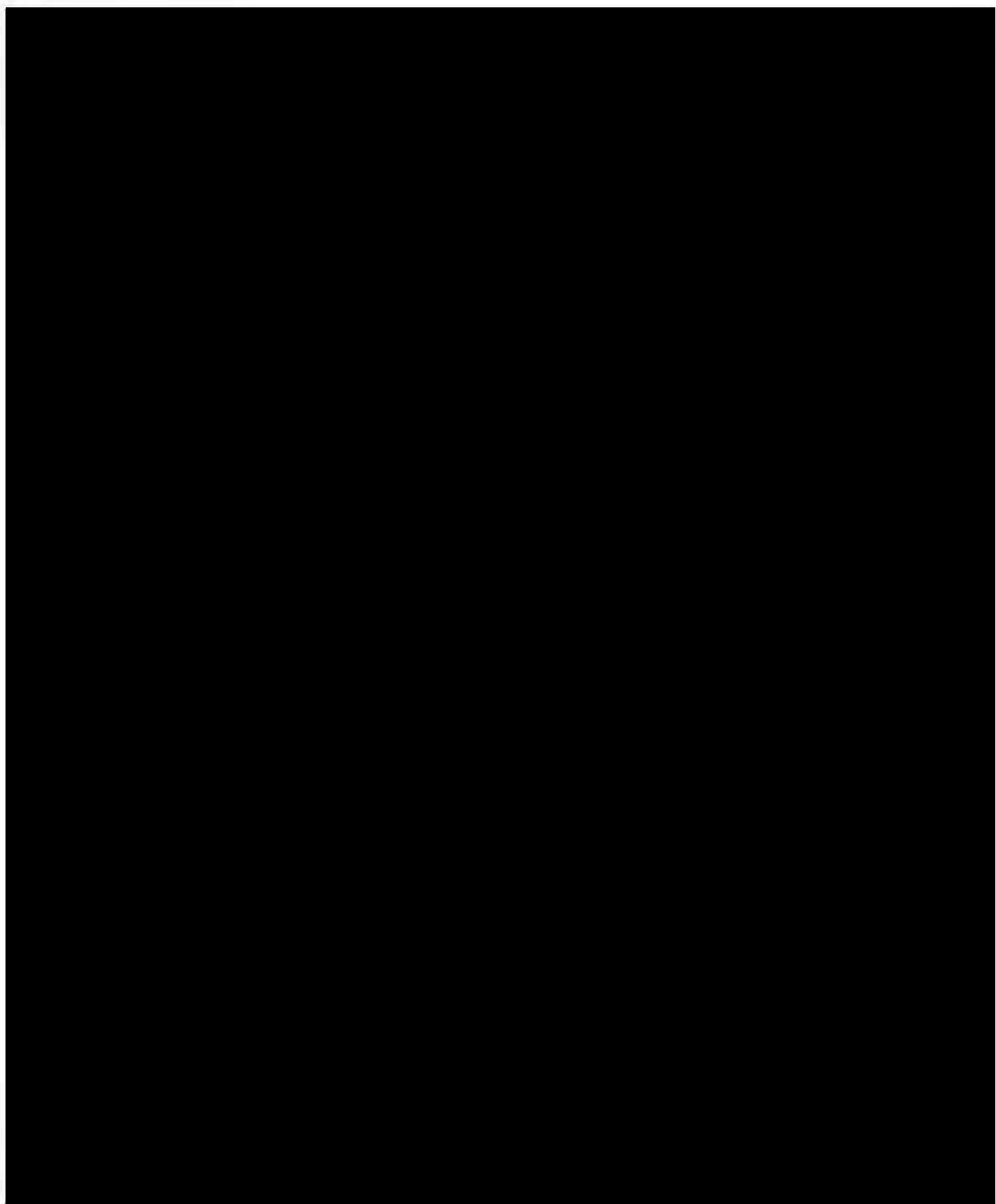


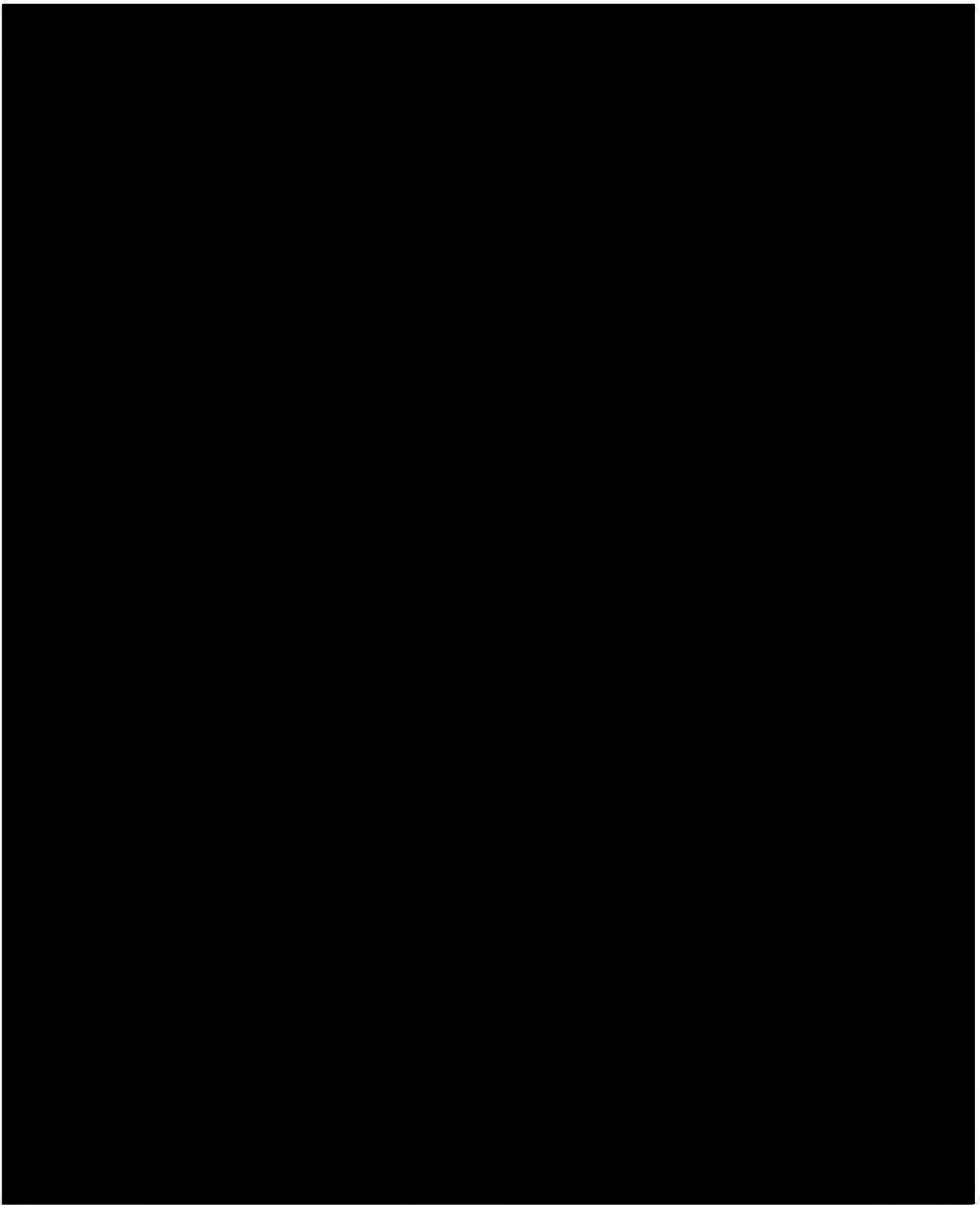


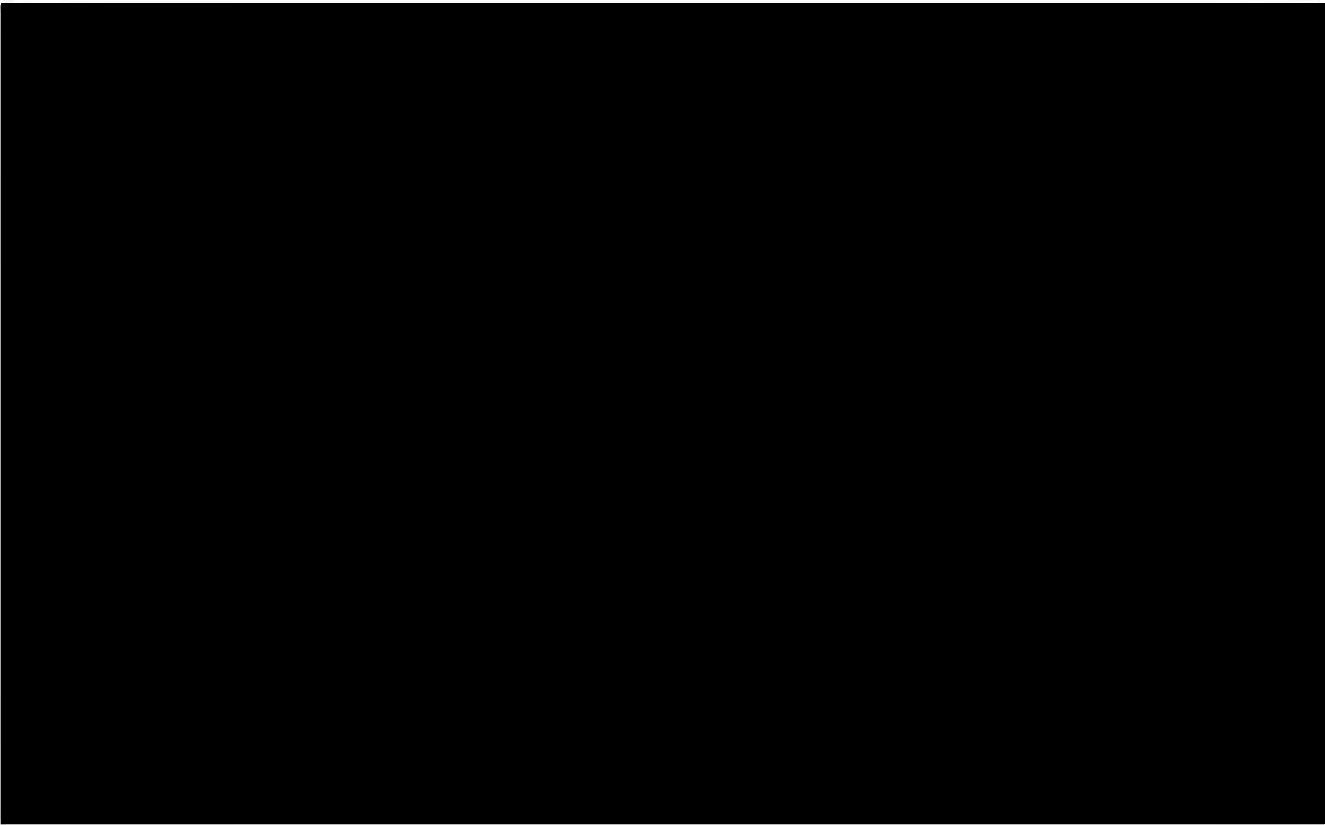






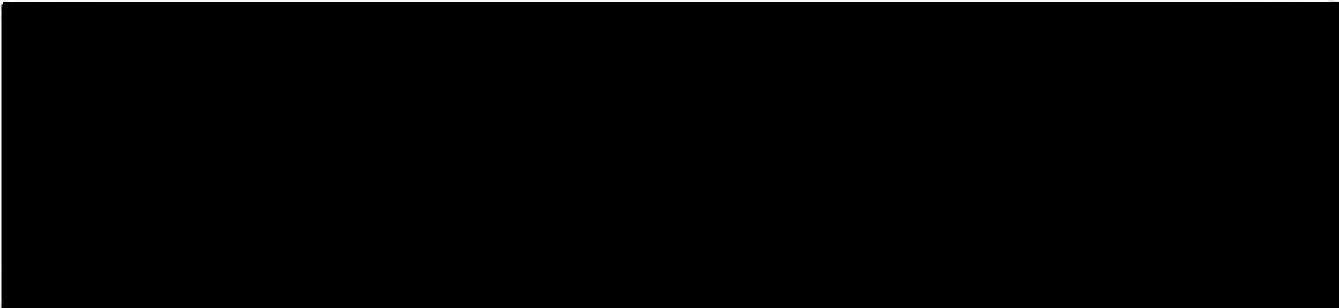






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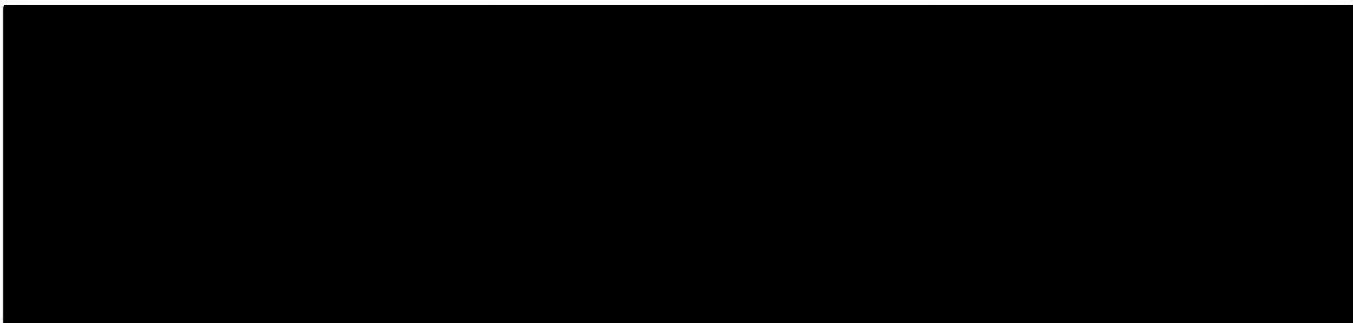
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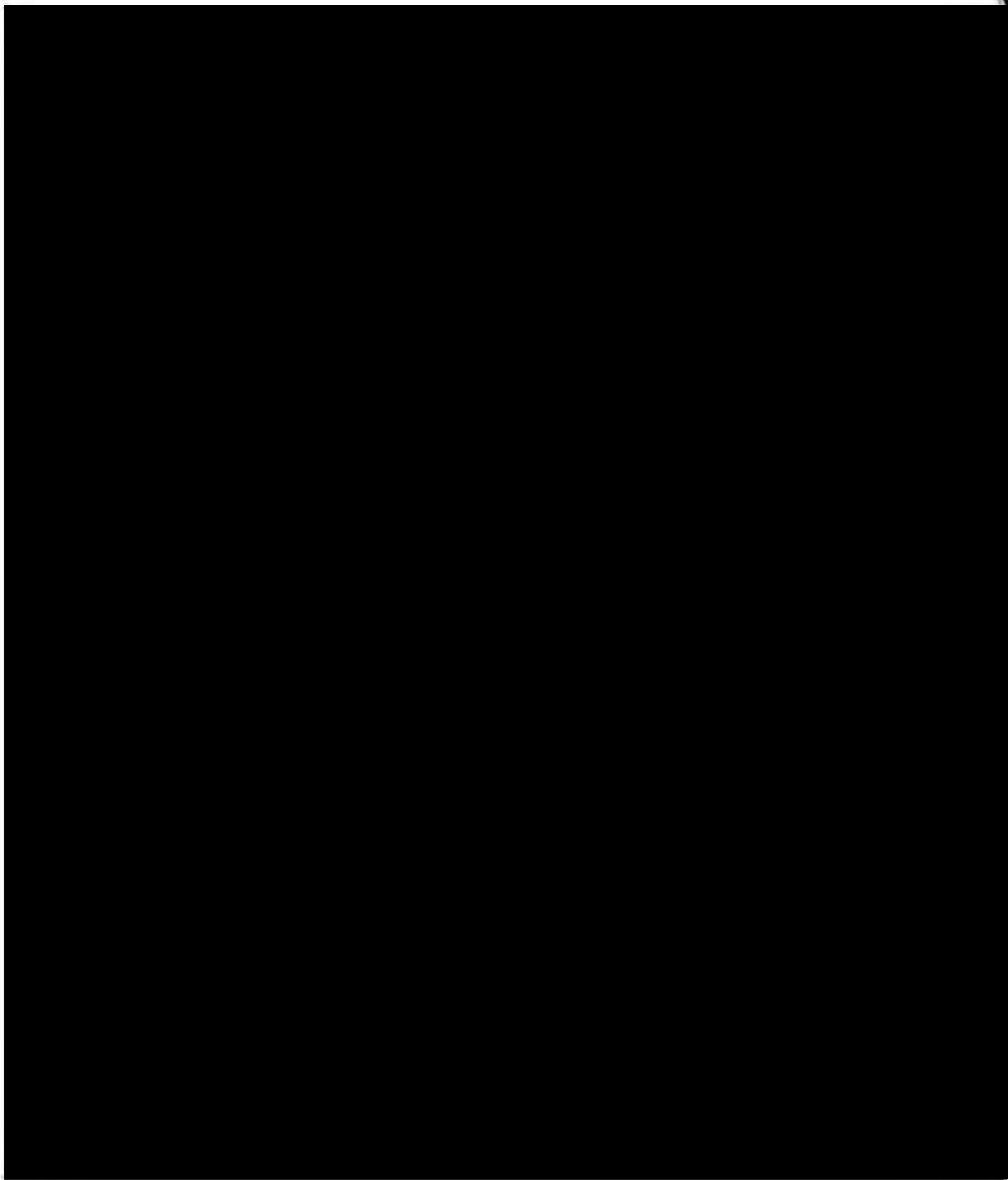
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Executed on: September ____, 2018
Parkland, Florida

By: _____

Alan S. Willner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

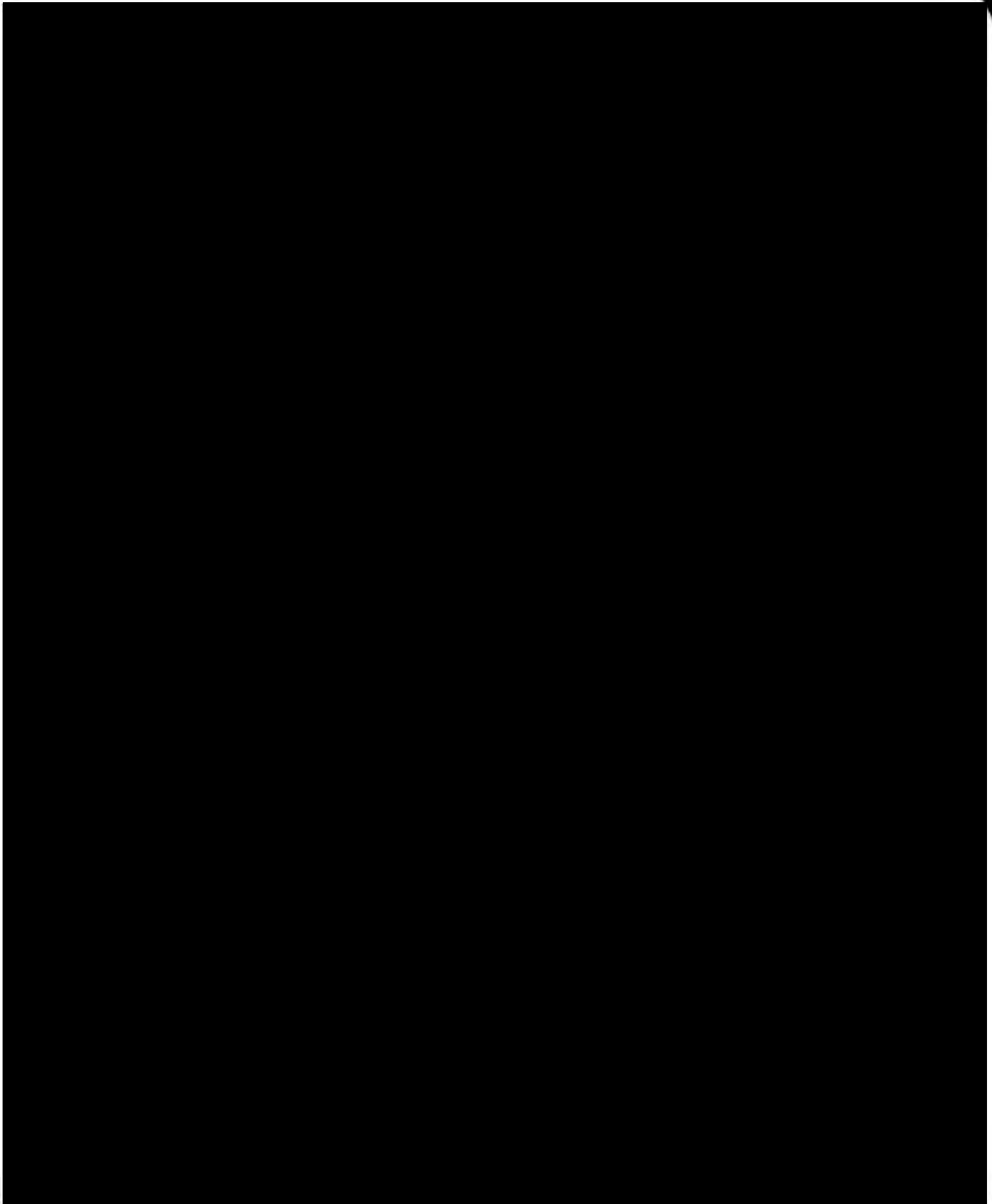
Date registered: June 6, 1995

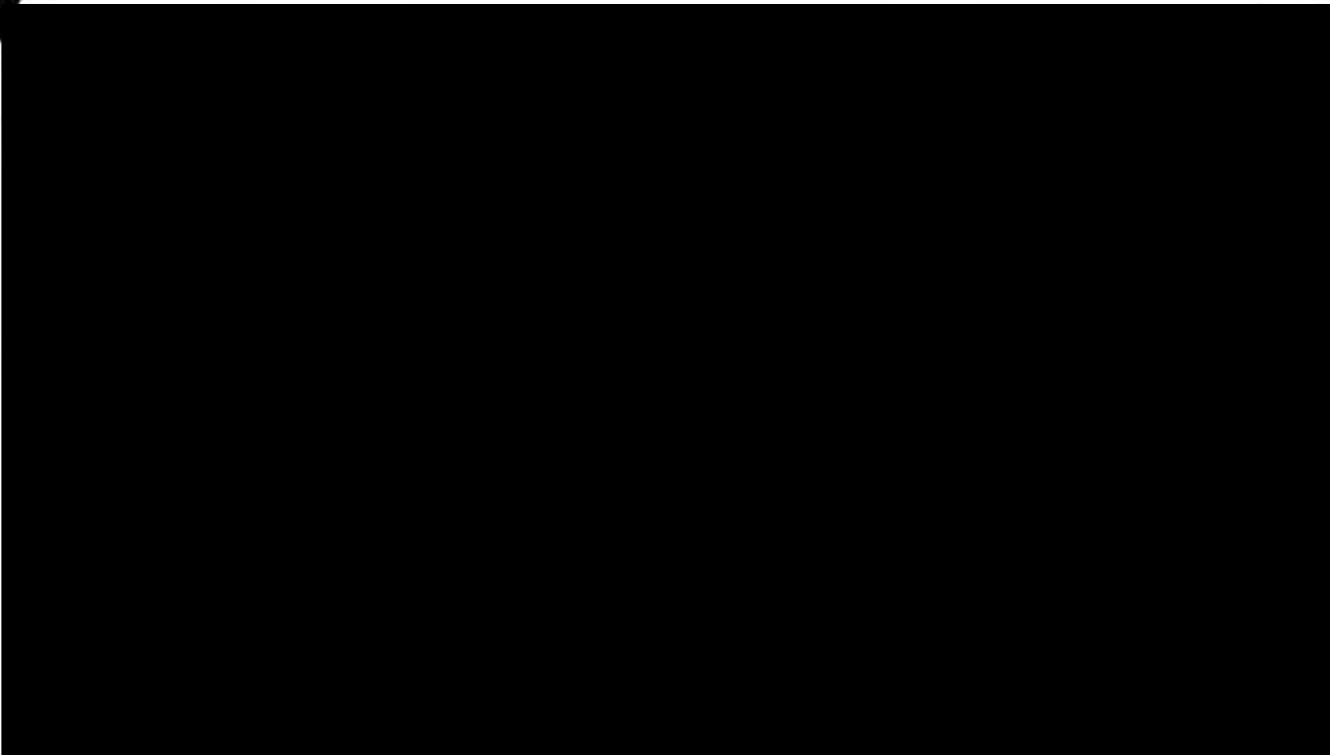
EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO,	X	
	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC. and CULBRO	:	
CORP.	:	
	:	
Respondents.	:	
	:	
	X	

DECLARATION OF ALAN S. WILLNER

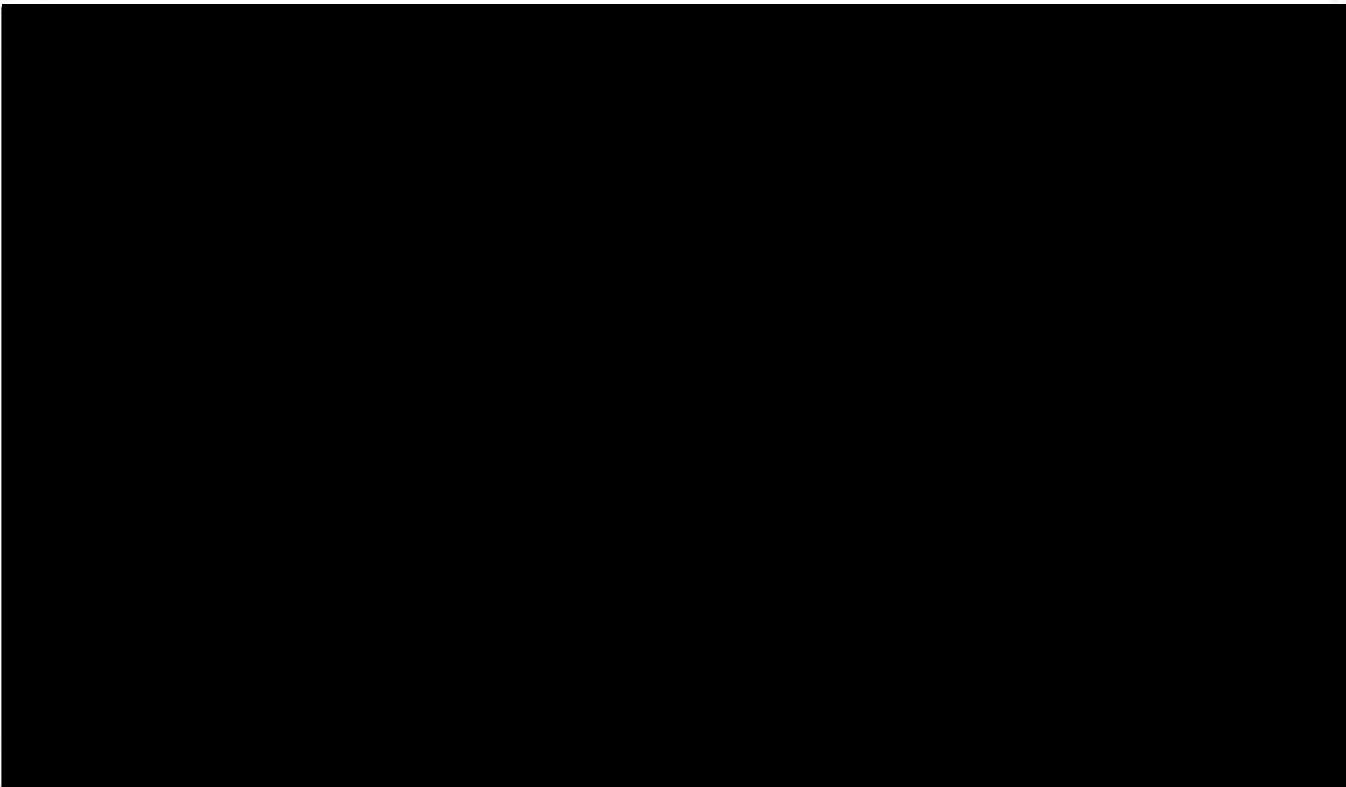
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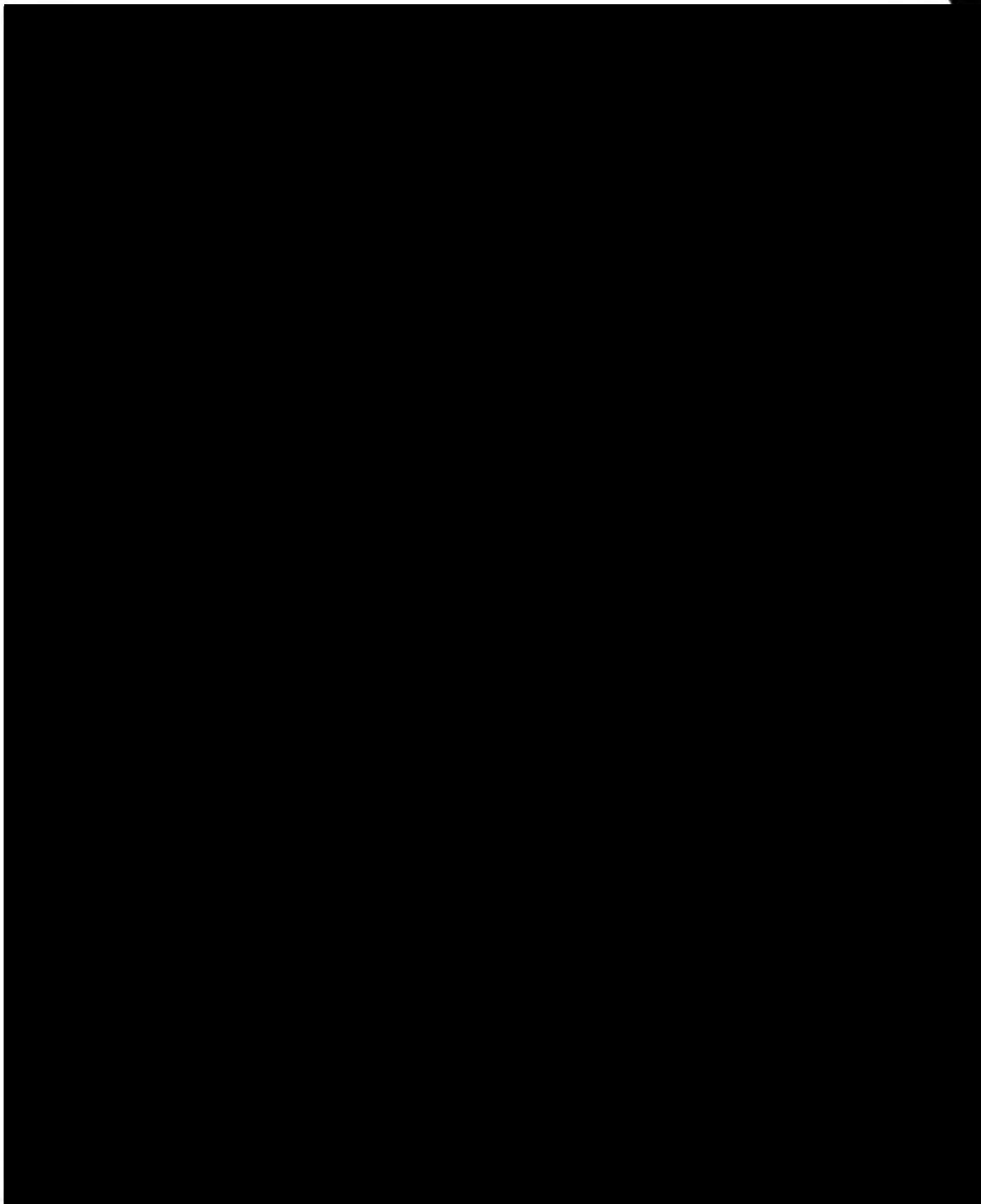
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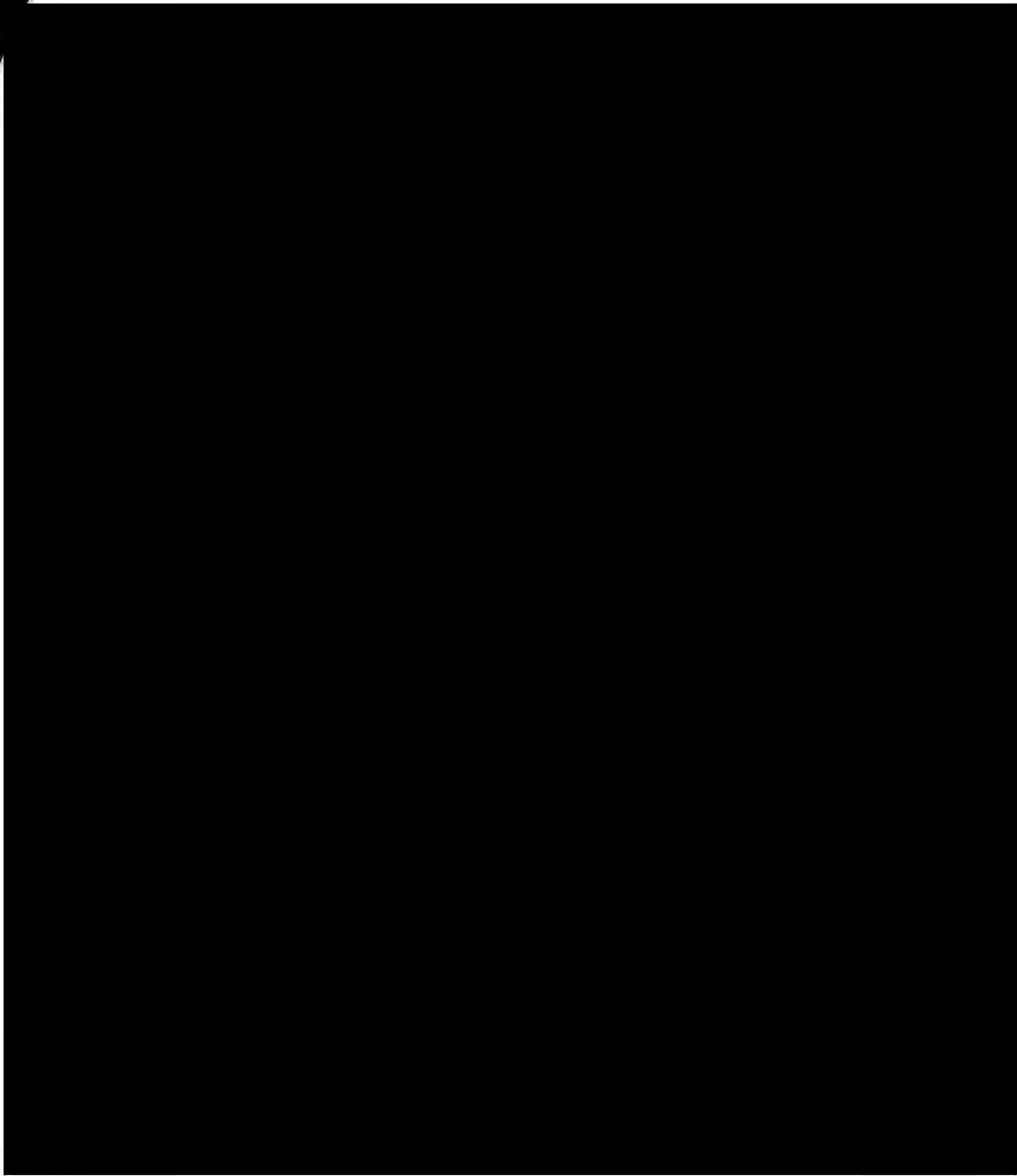


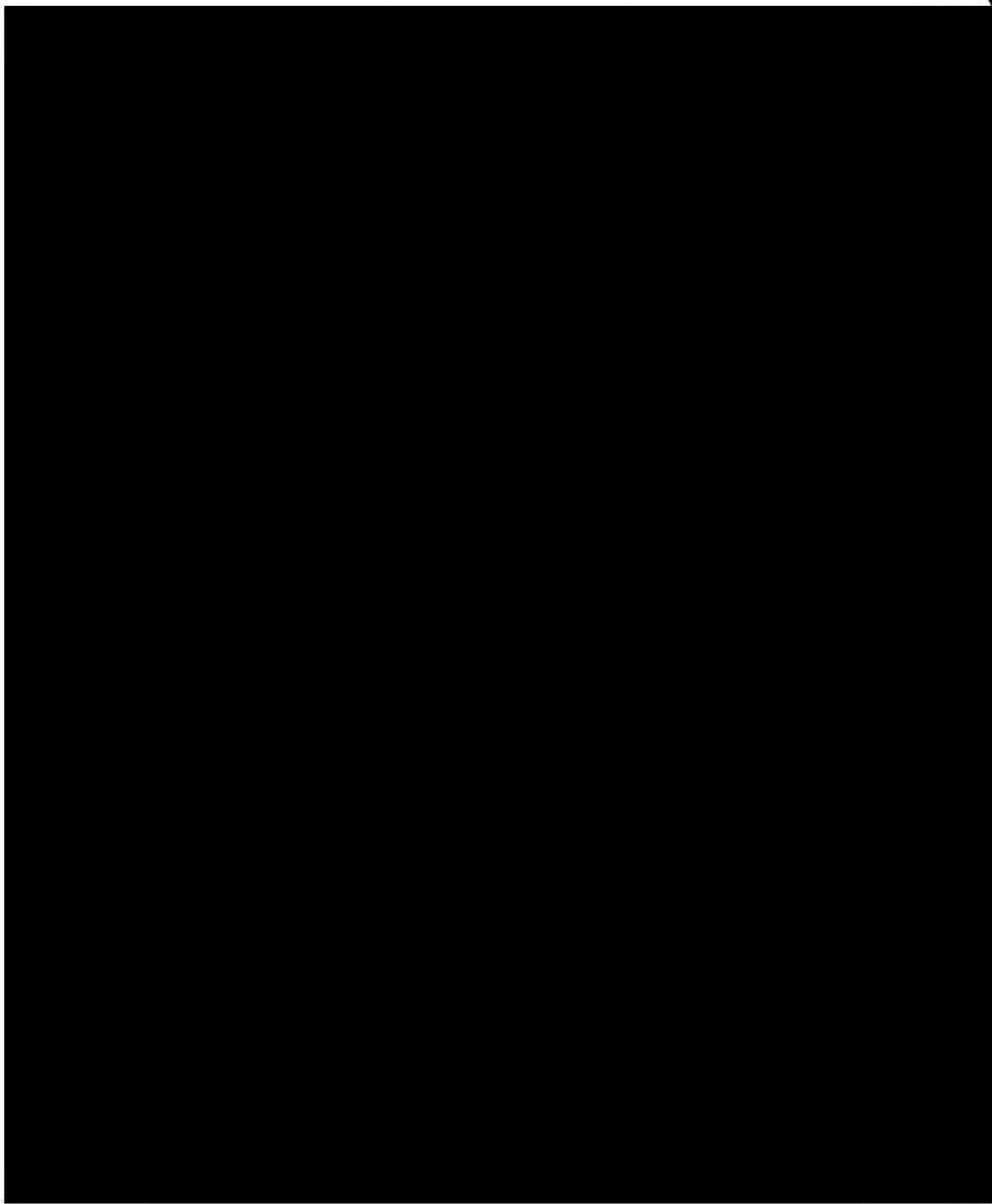


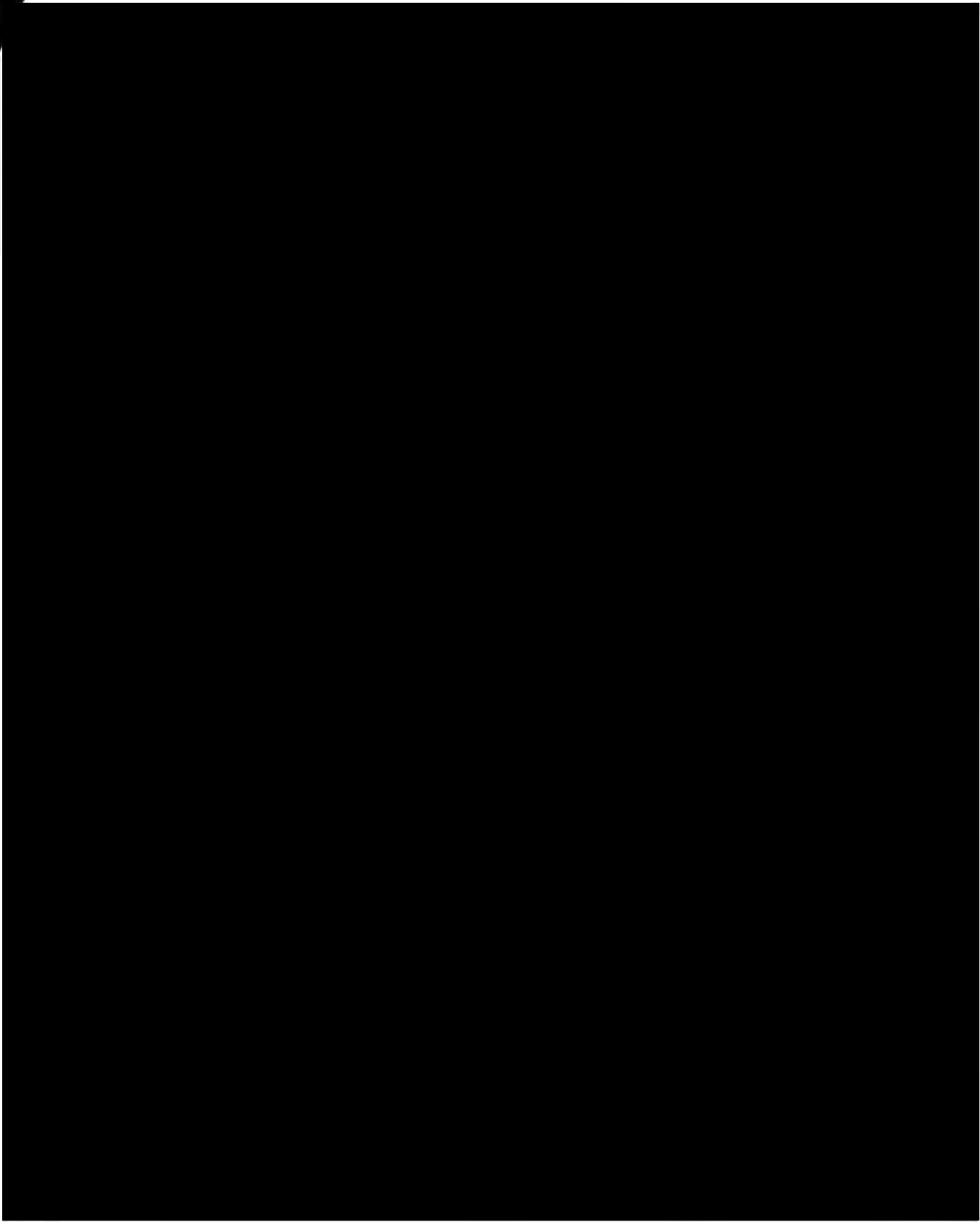
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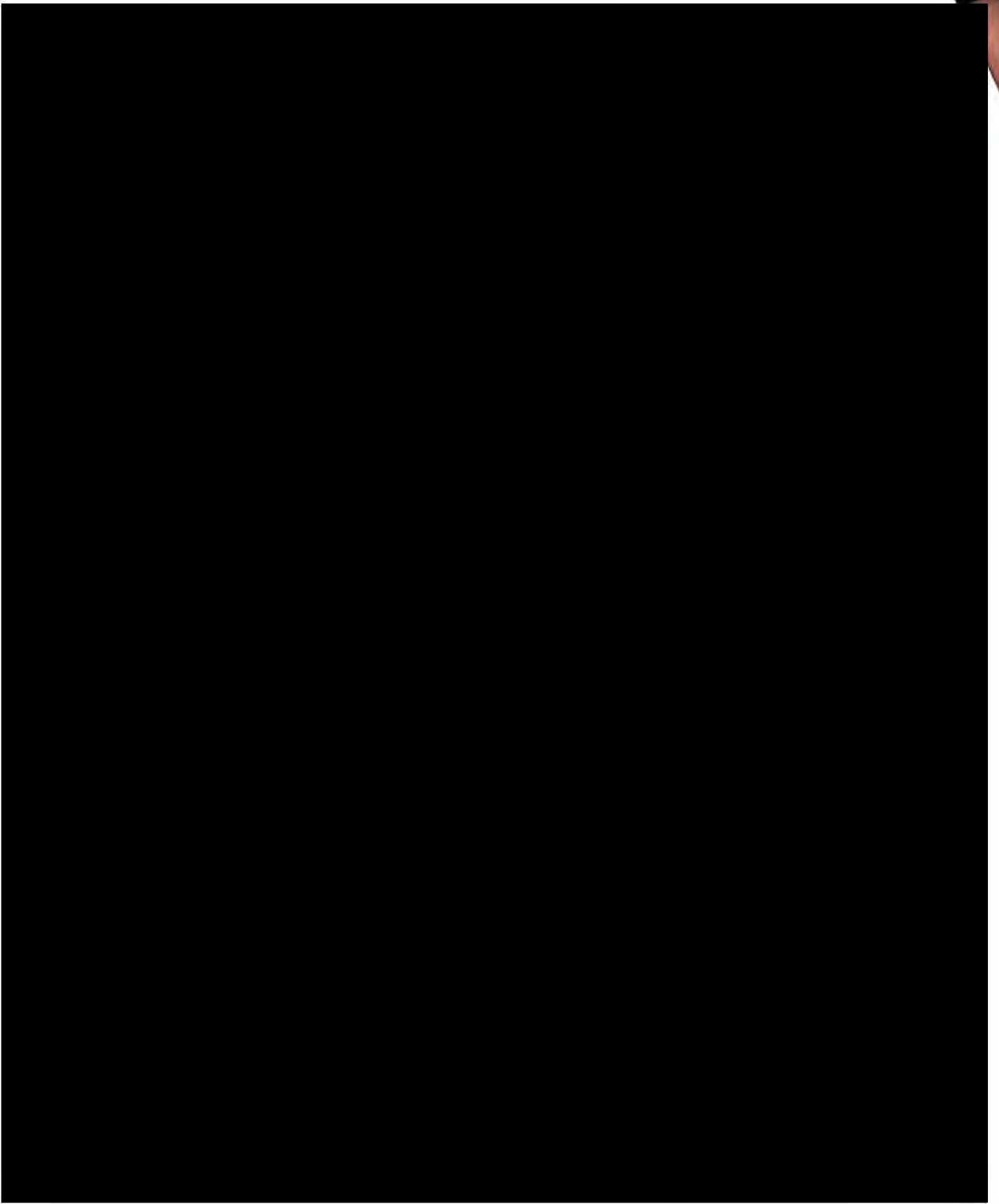


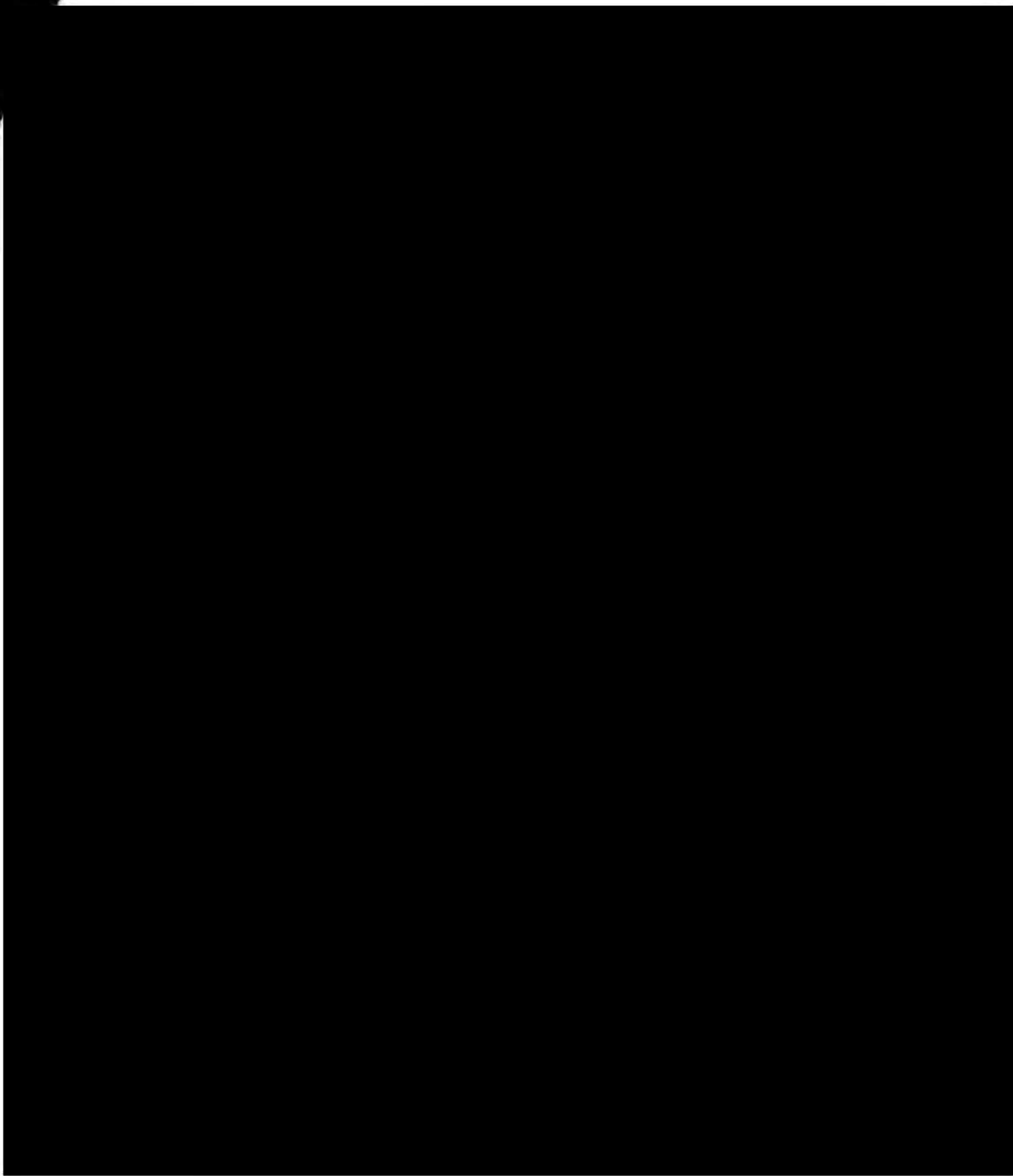


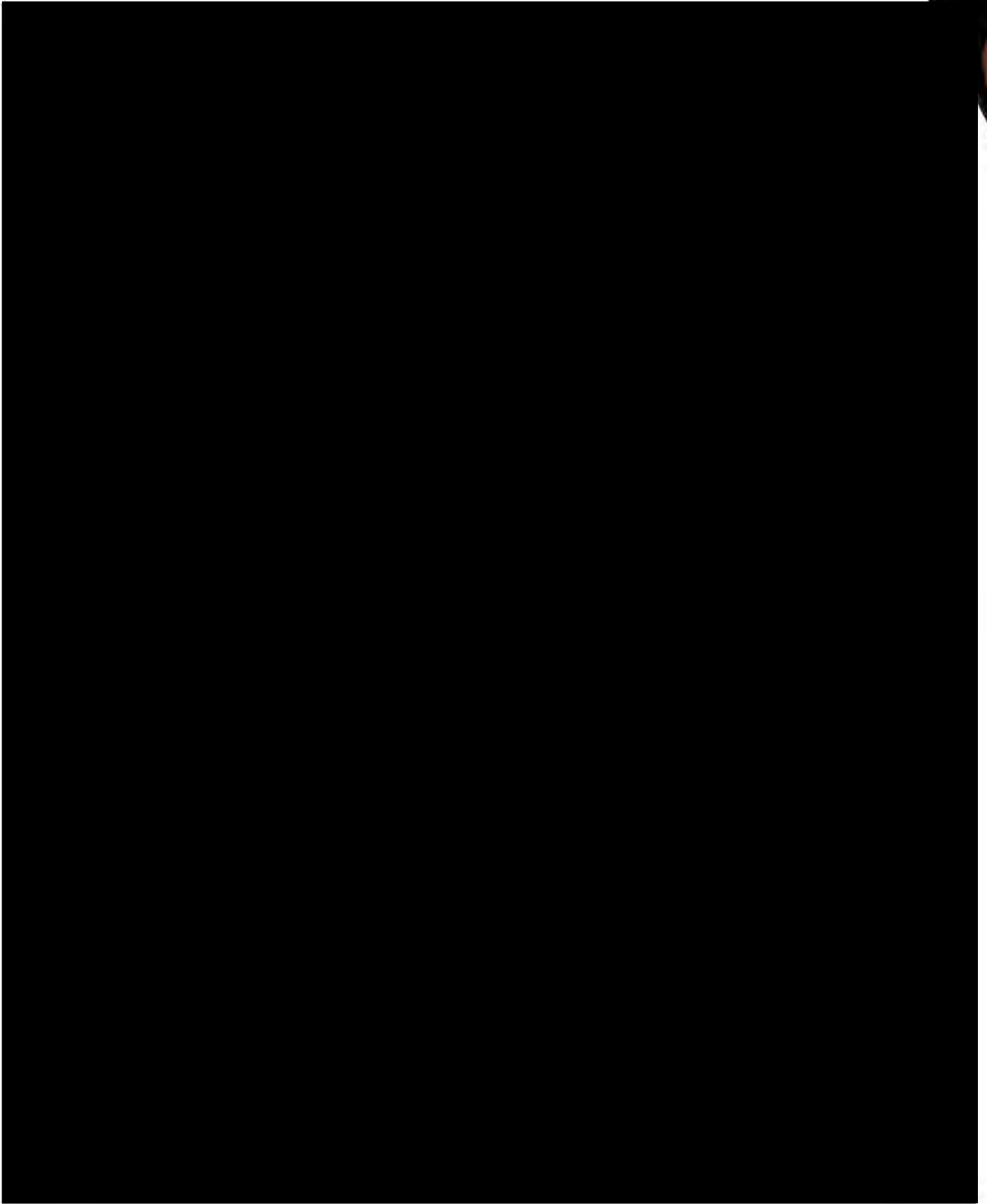


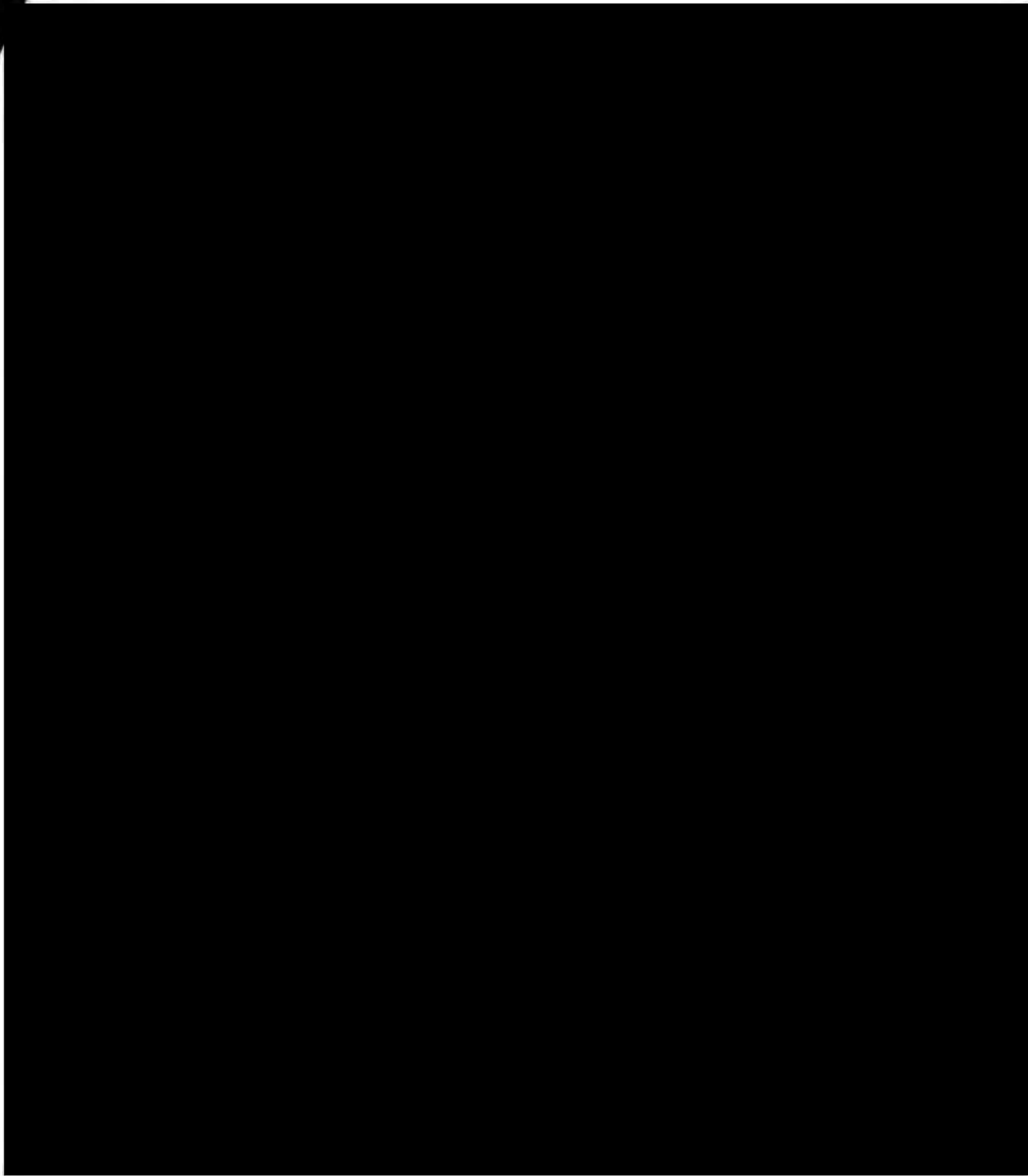


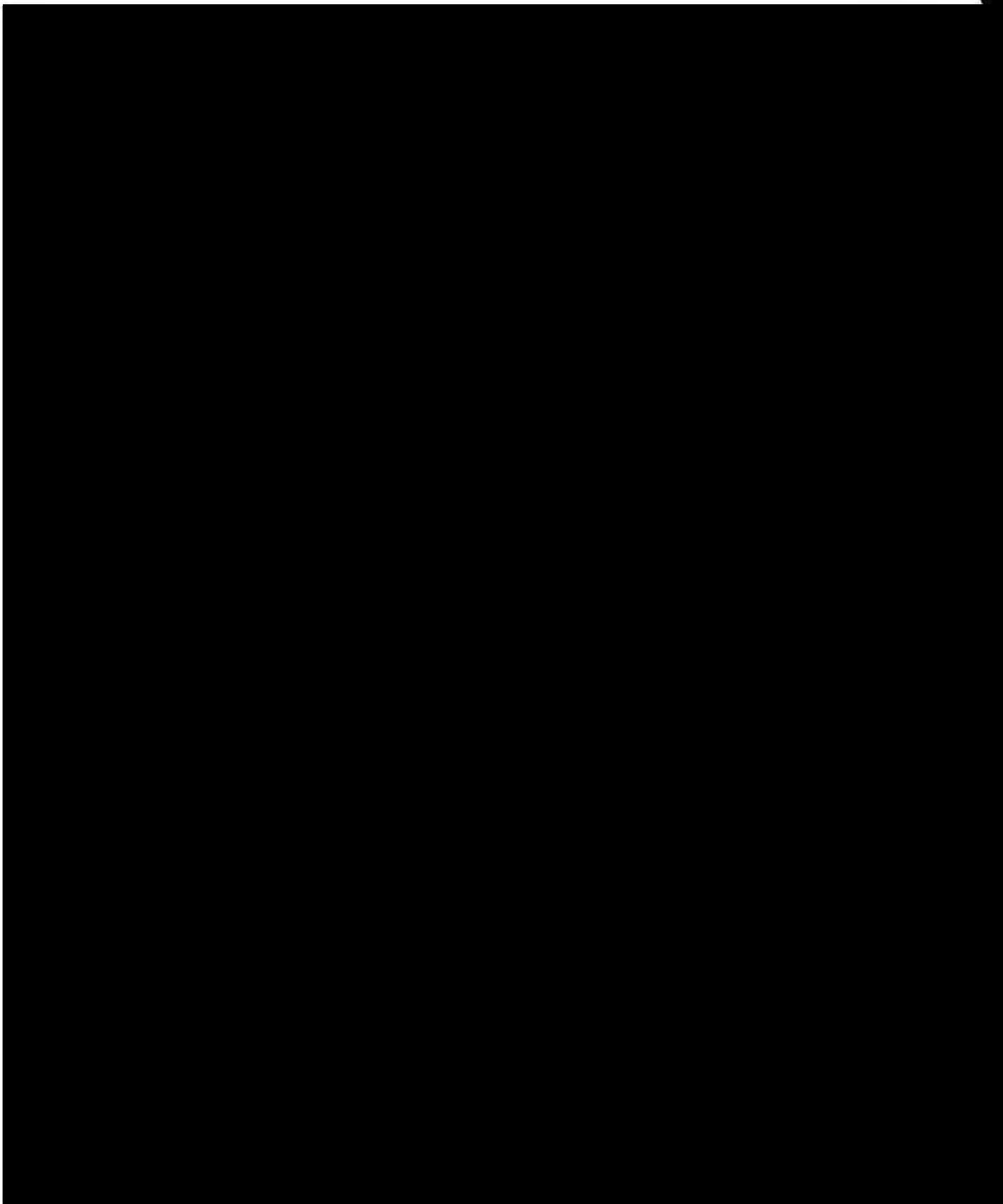


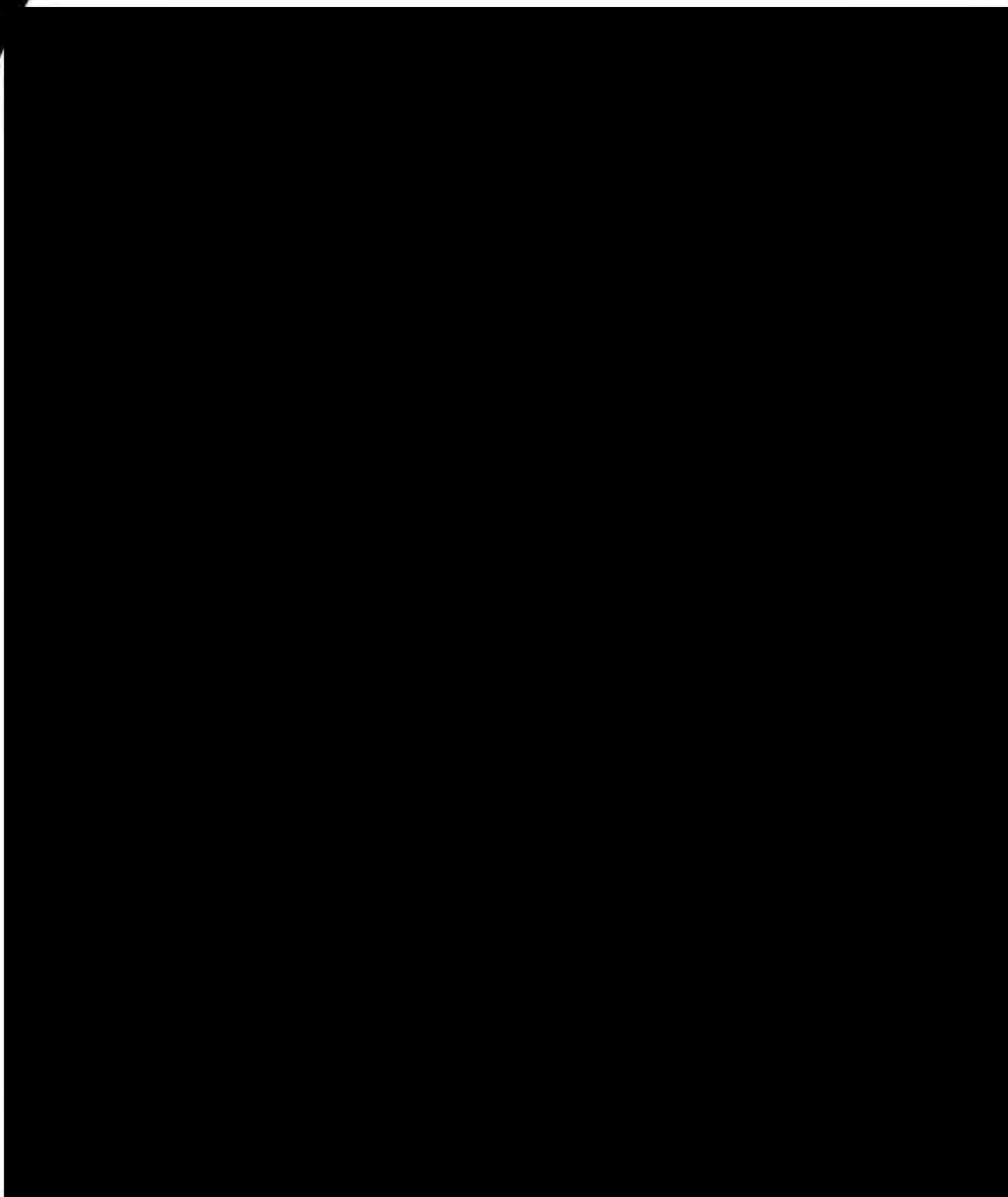
















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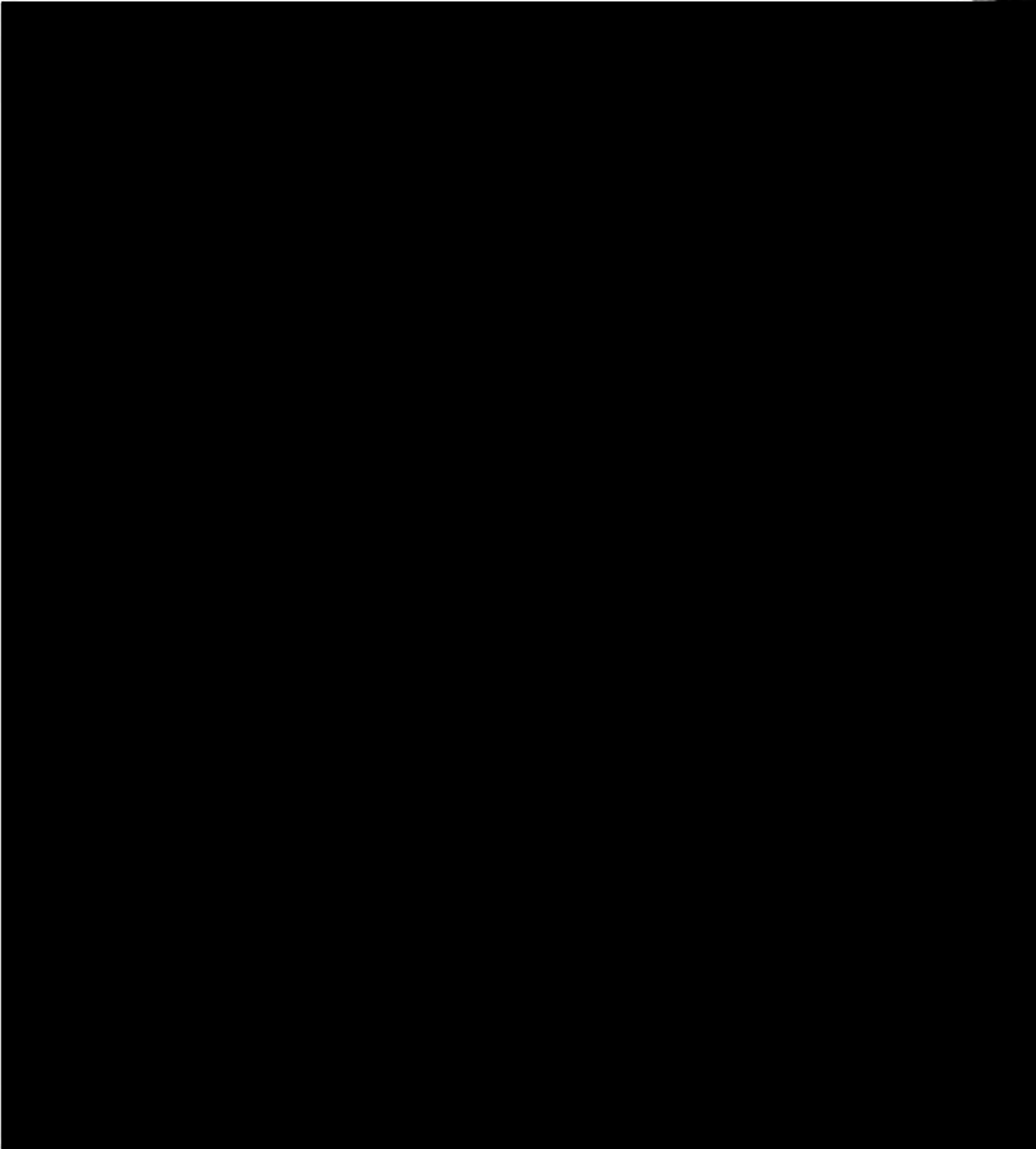
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Executed on: September ___, 2018

Parkland, Florida

By: _____

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Date registered: February 17, 1981

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EMPRESA CUBANA DEL TABACO, d.b.a.
CUBATABACO,

Petitioner,

v.

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CORP.

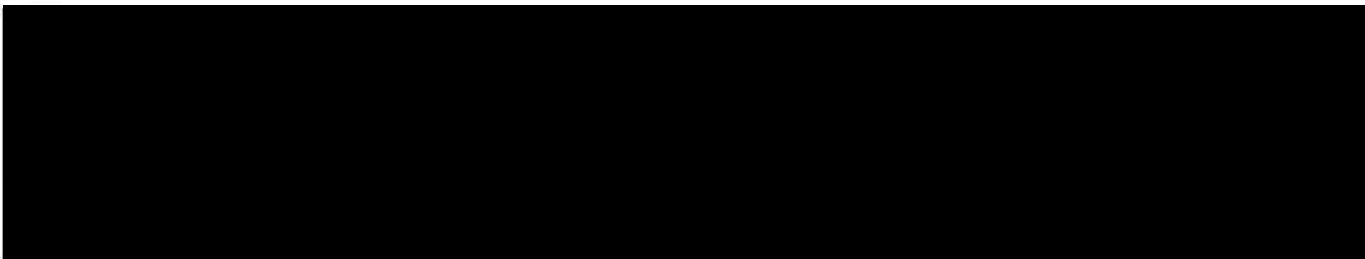
Respondents.
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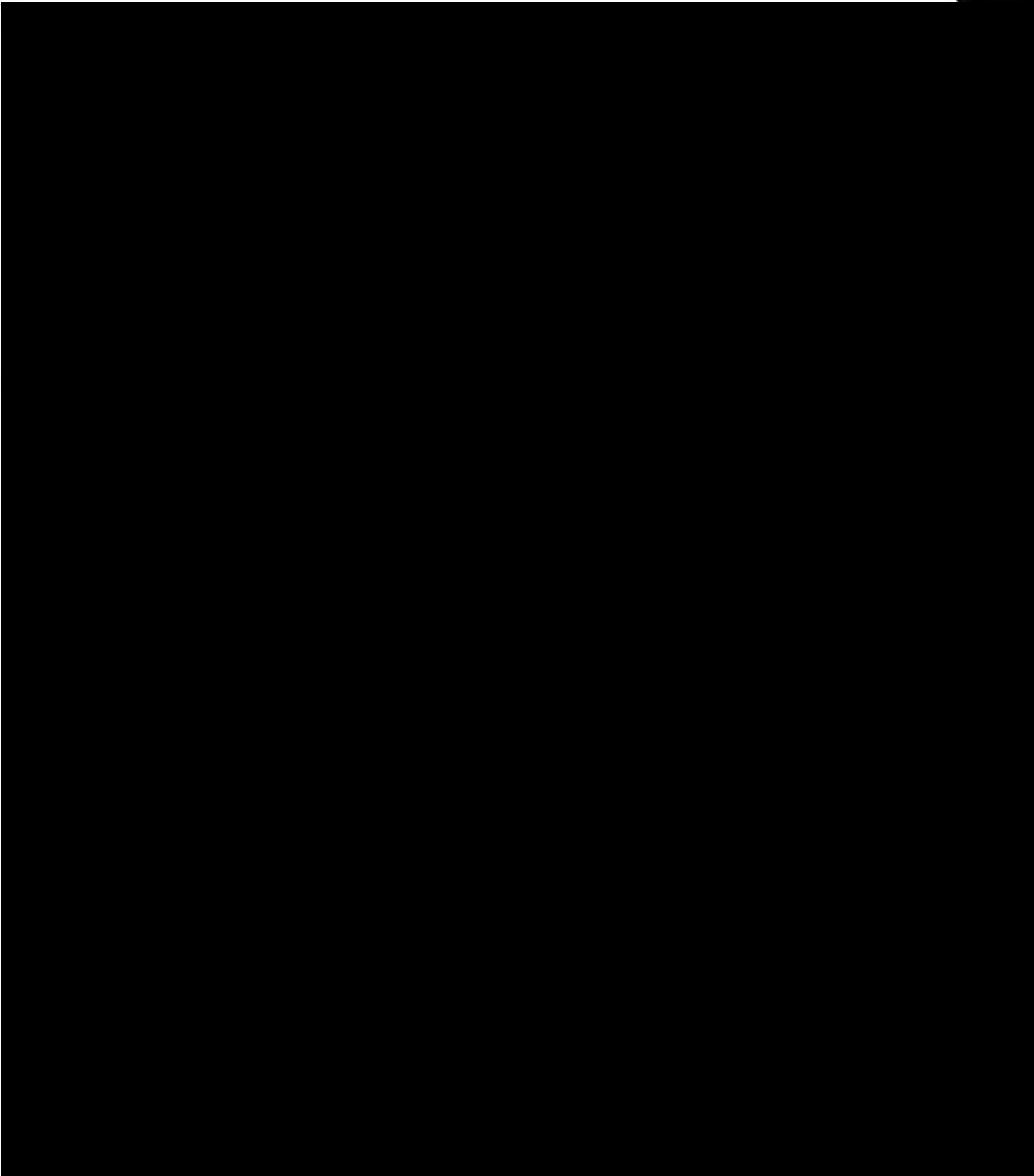
Cancellation No. 92025859

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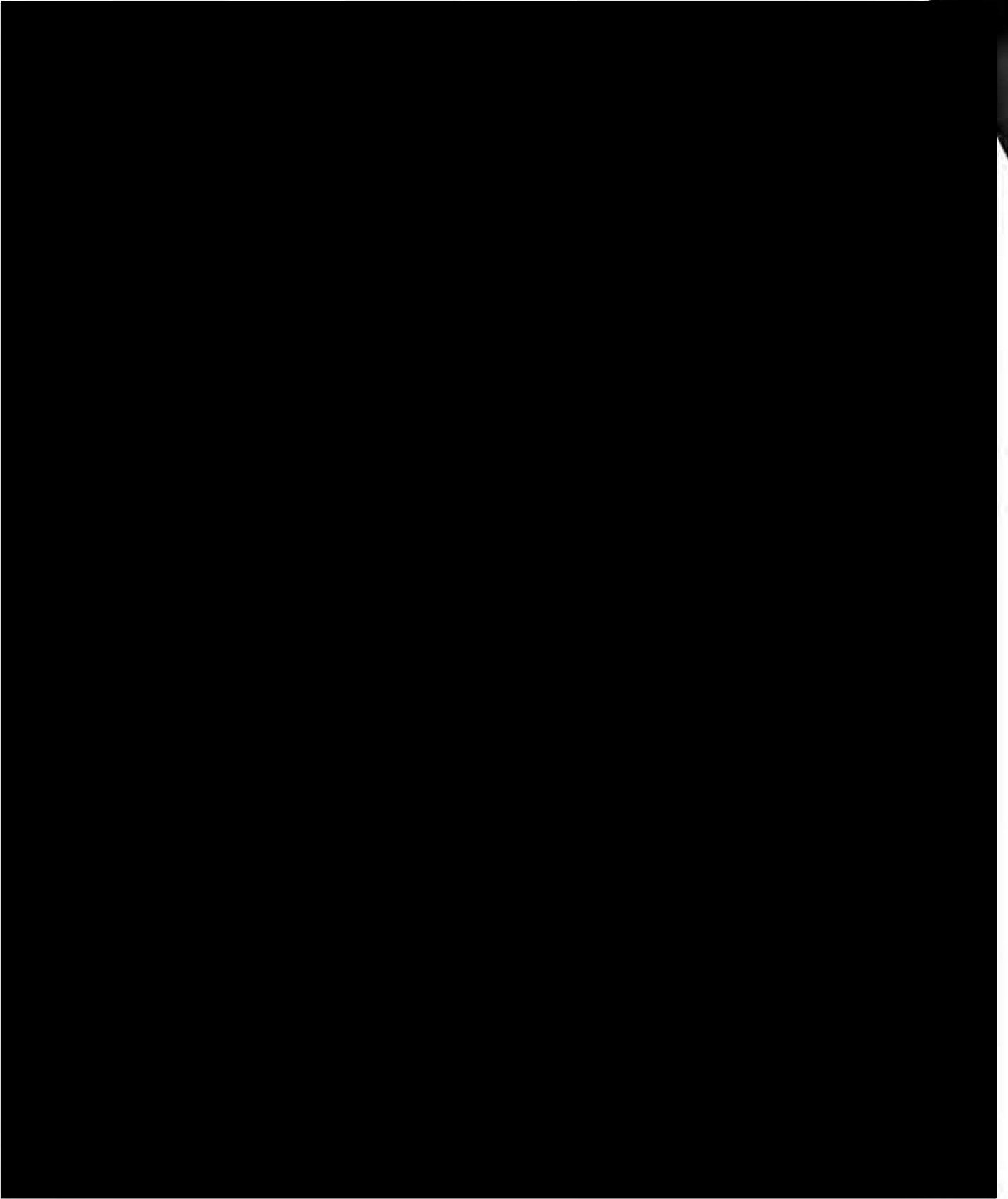


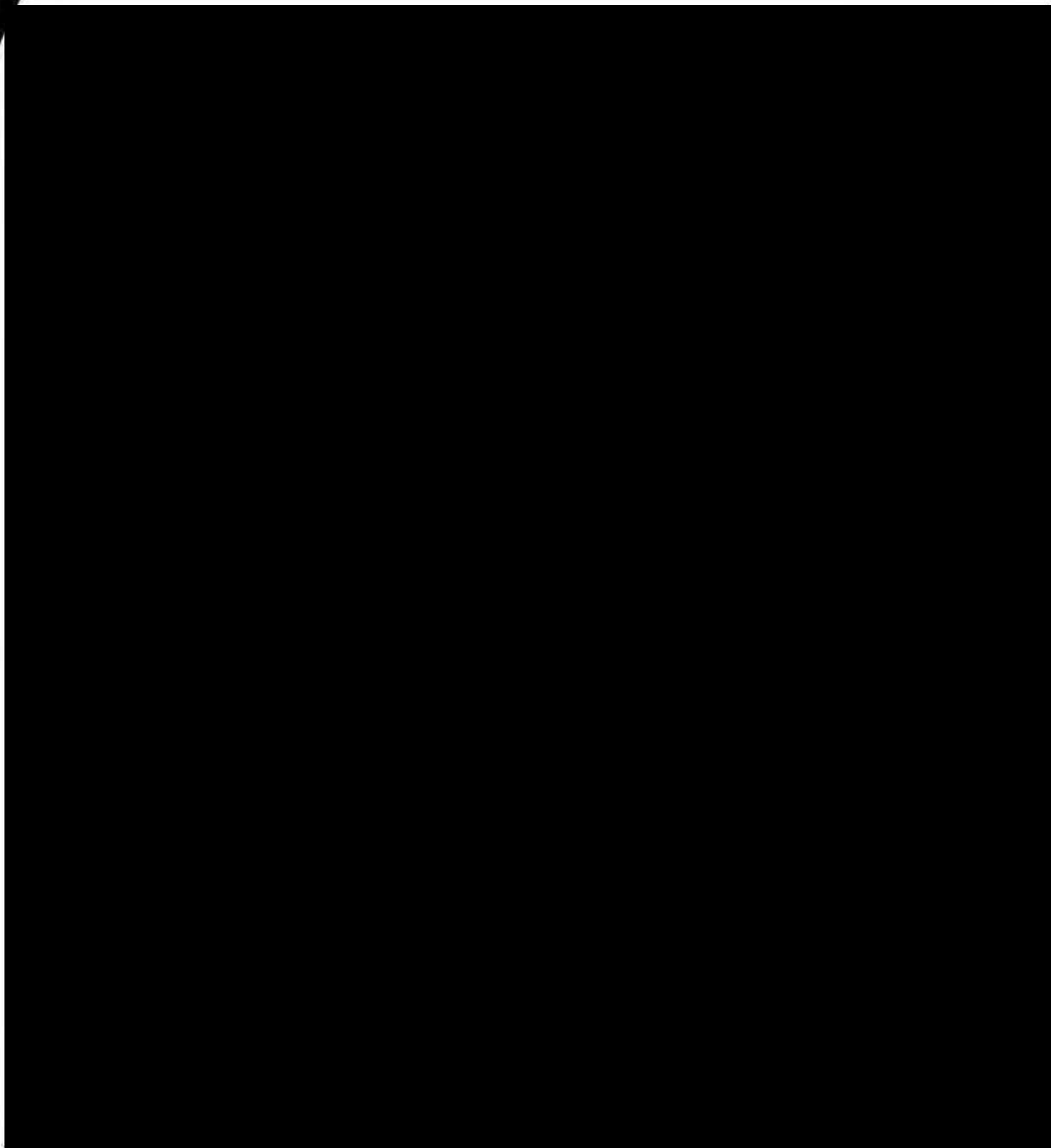


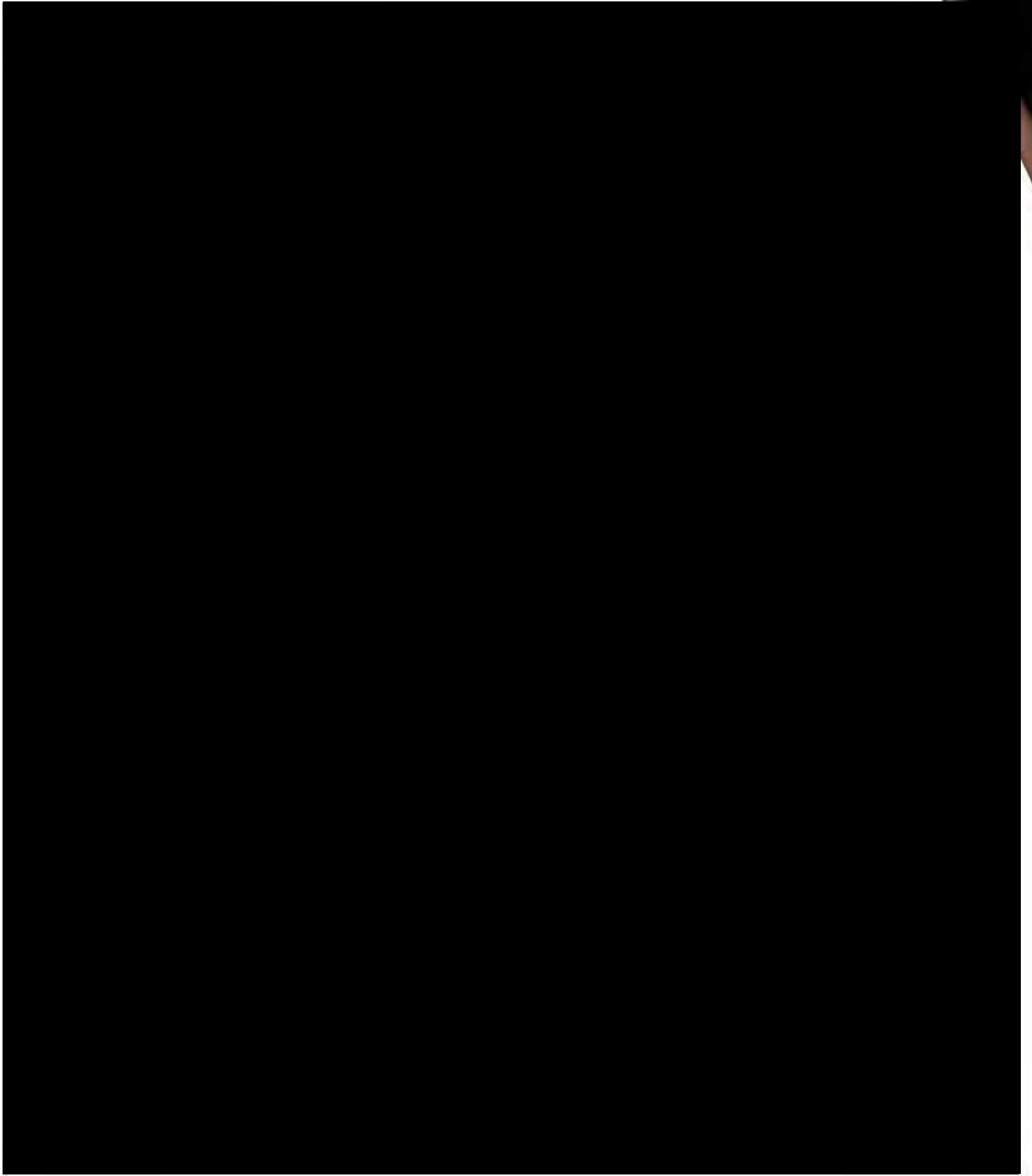
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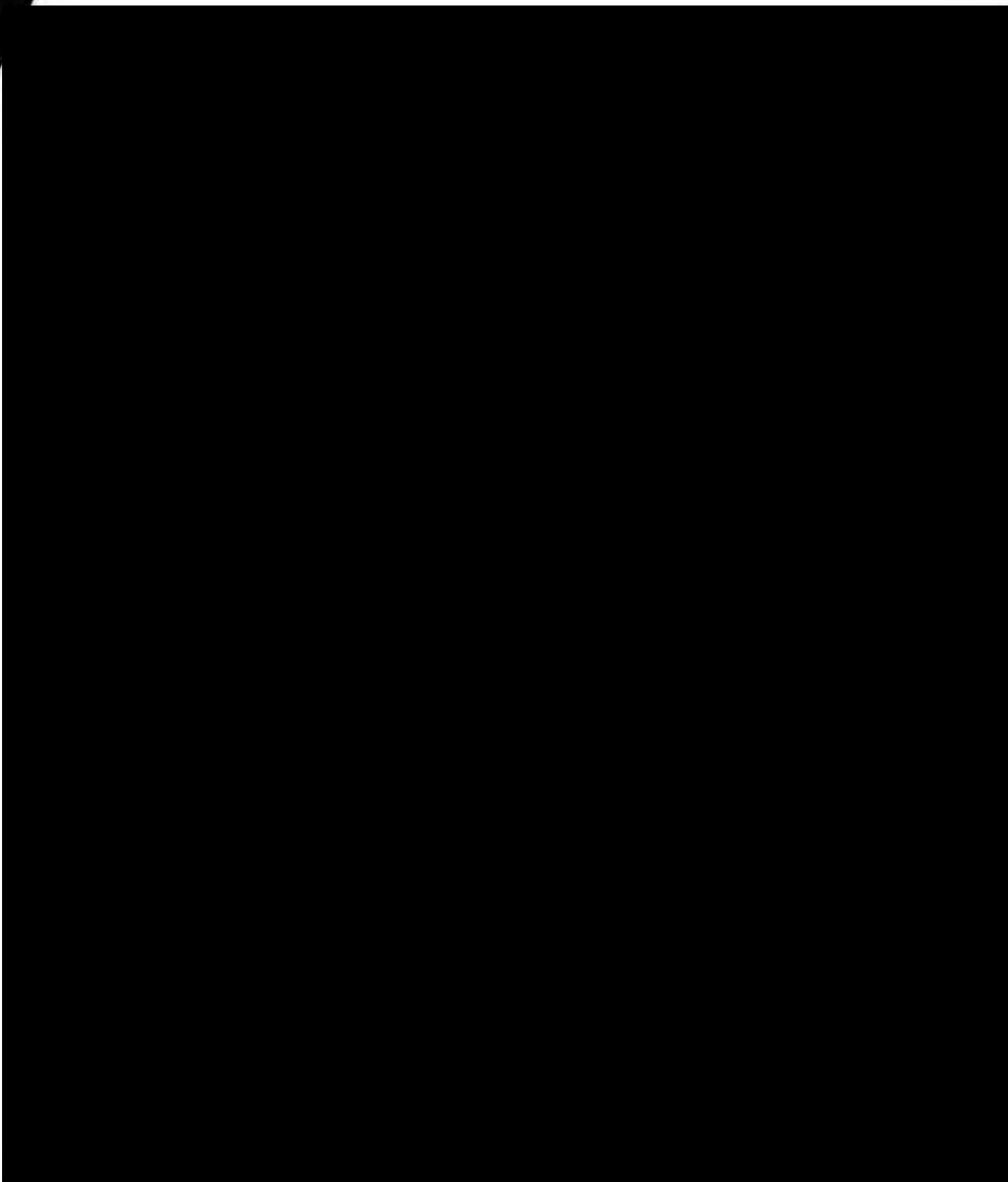
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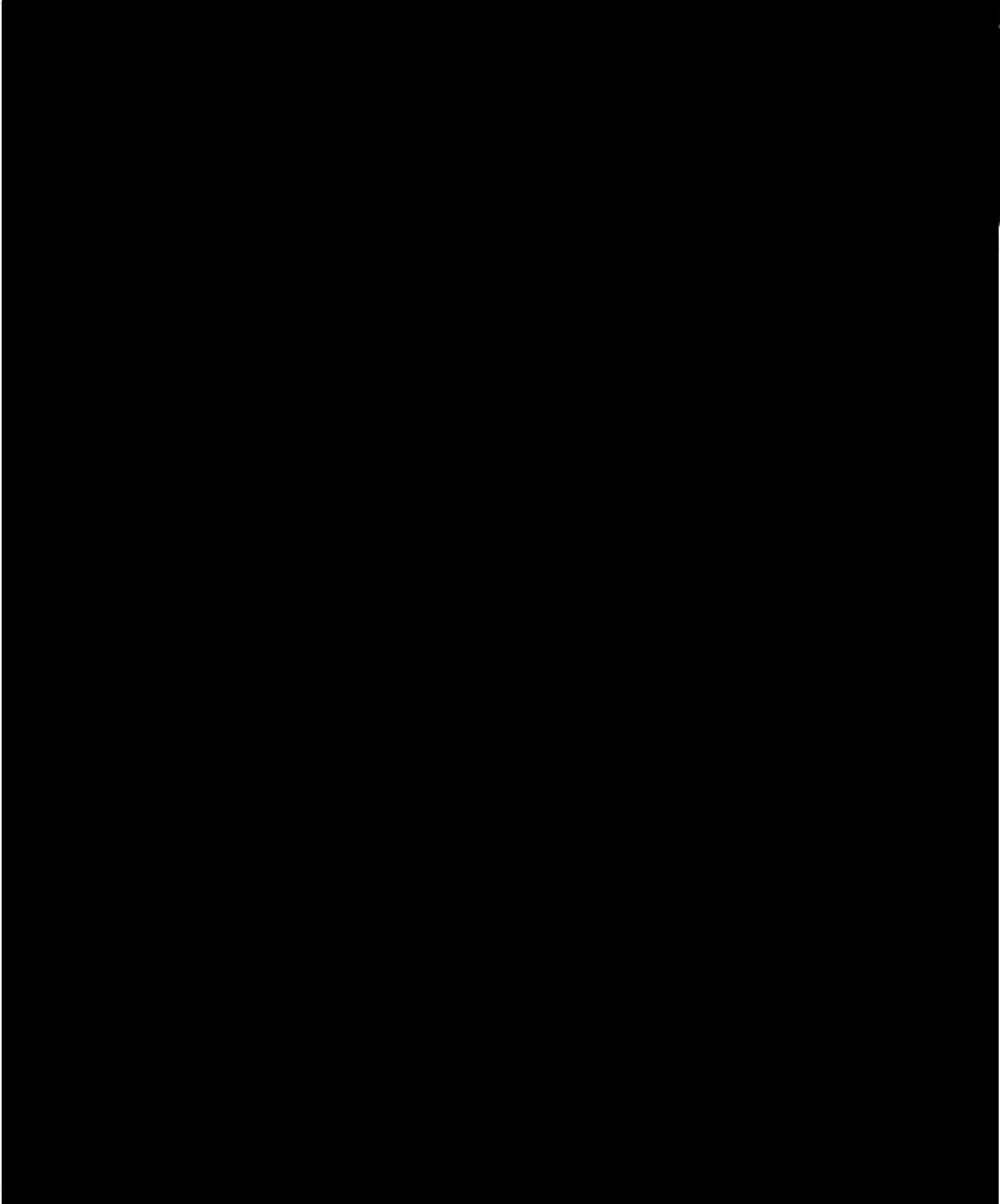


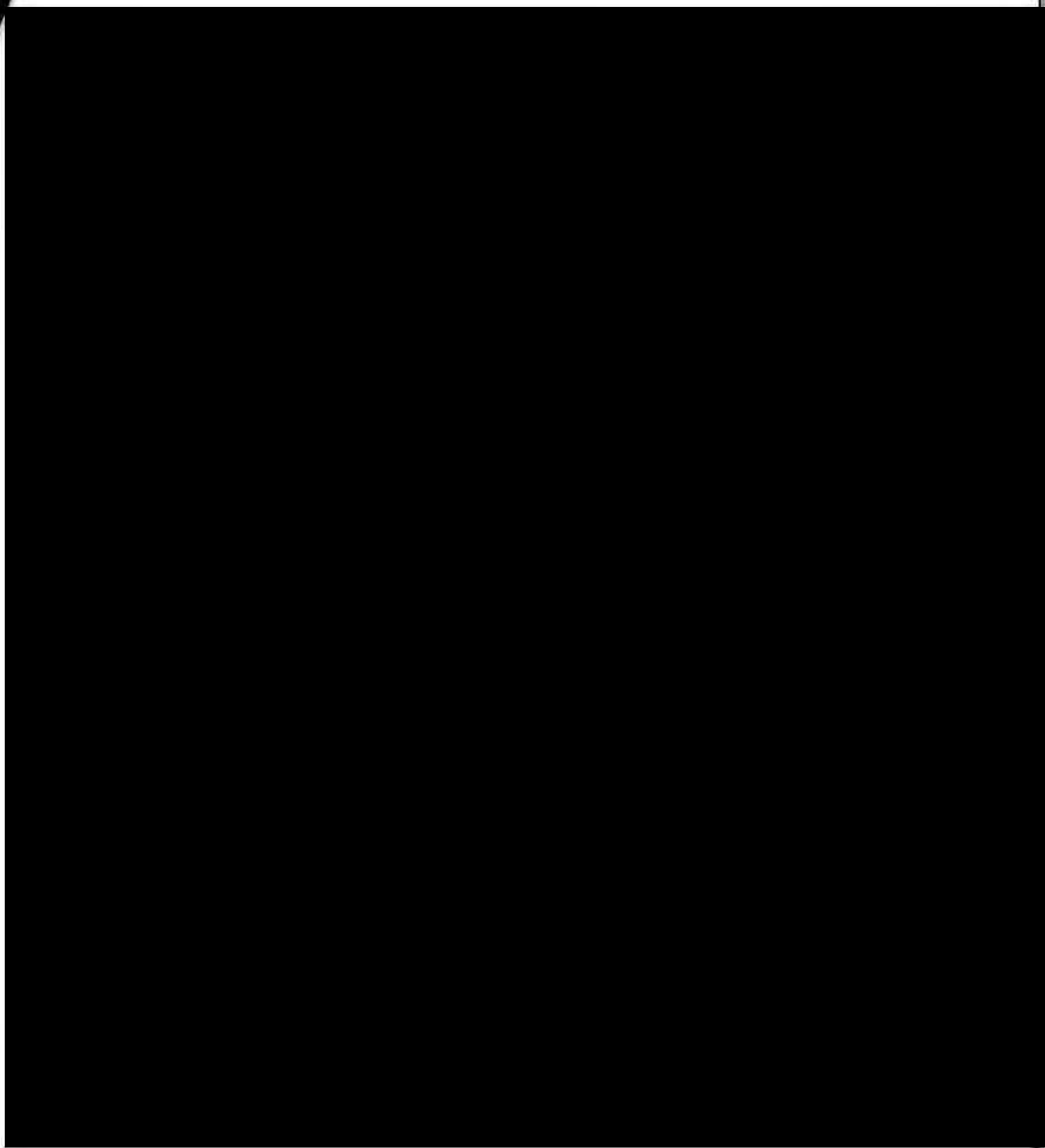


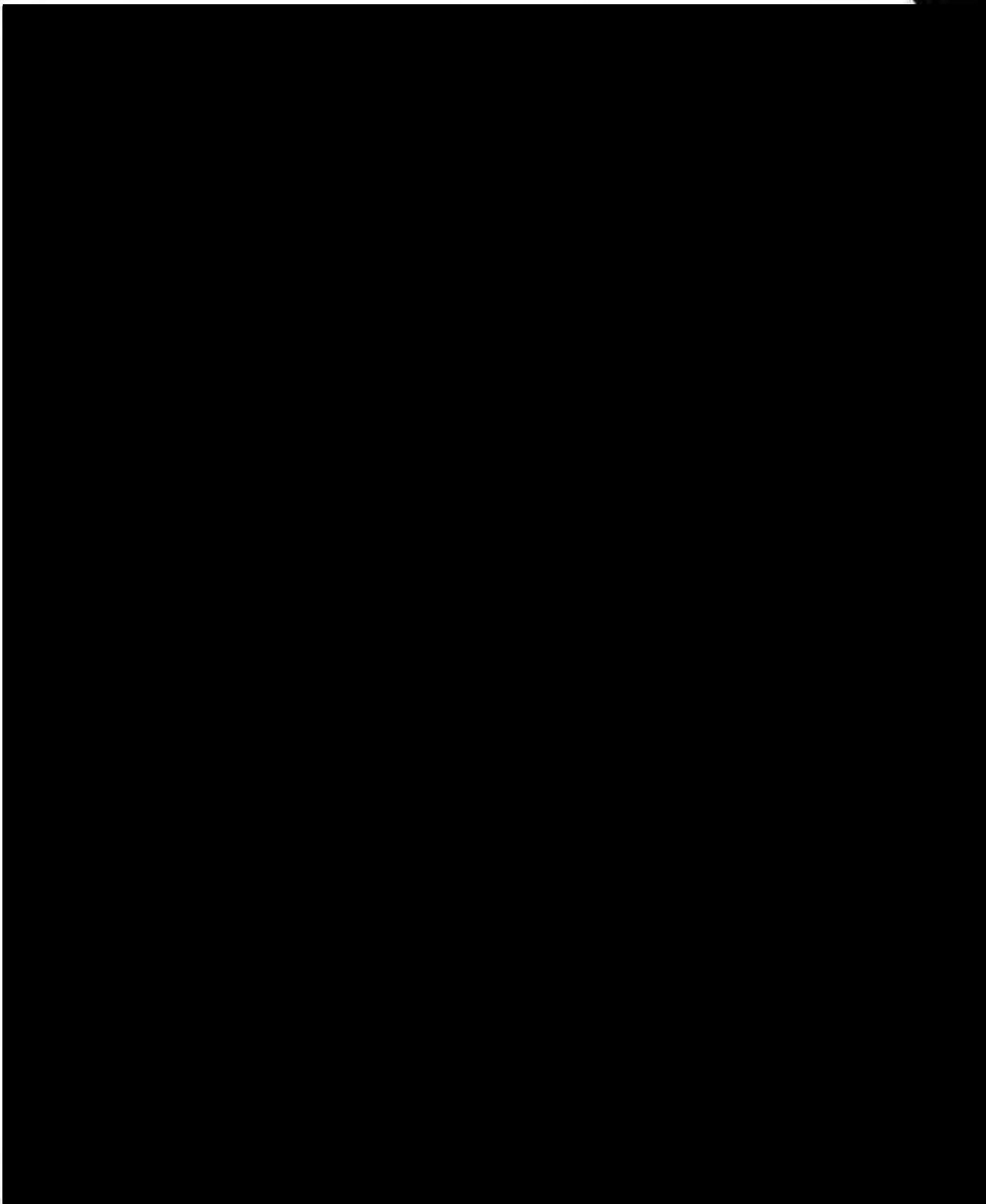


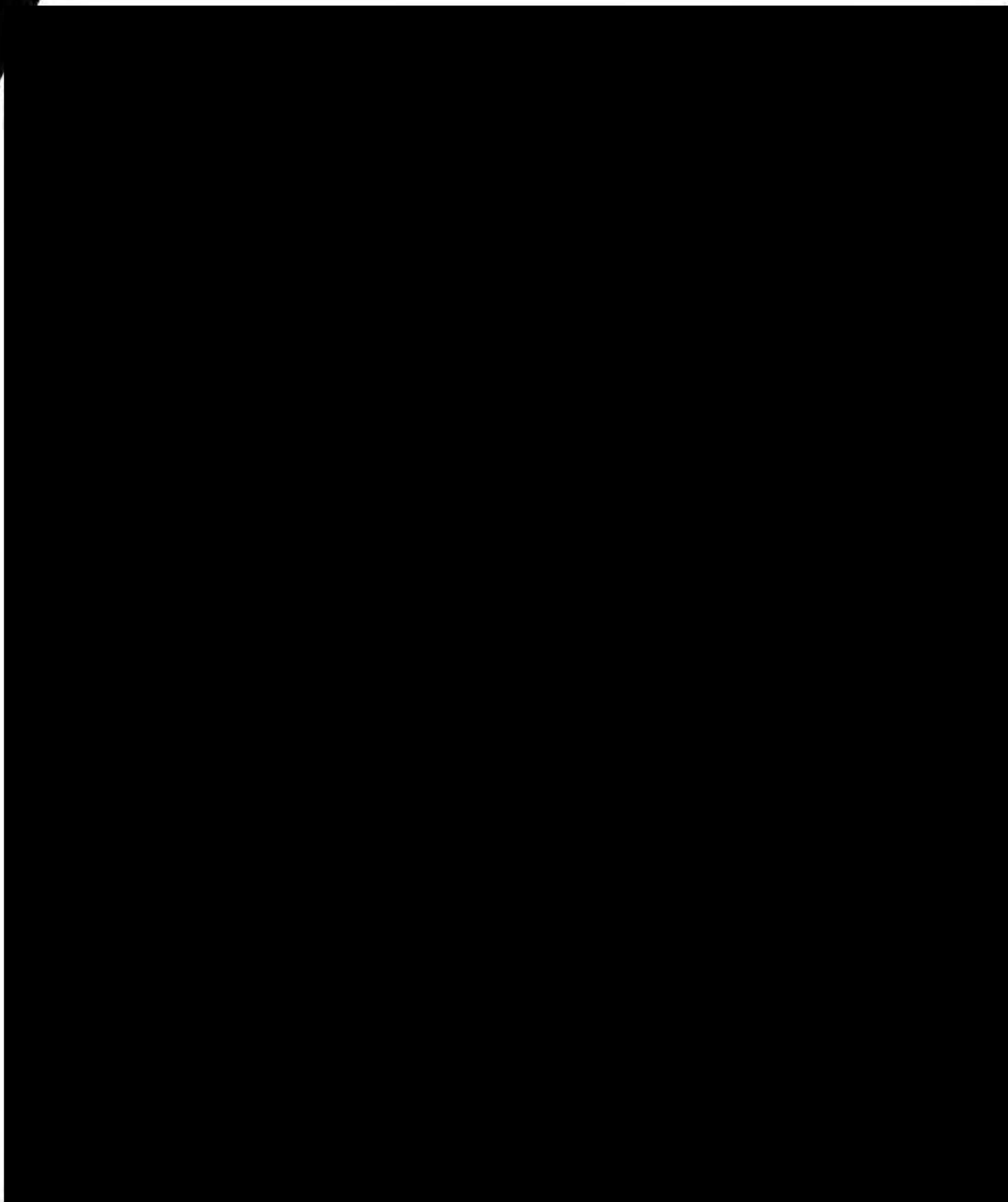


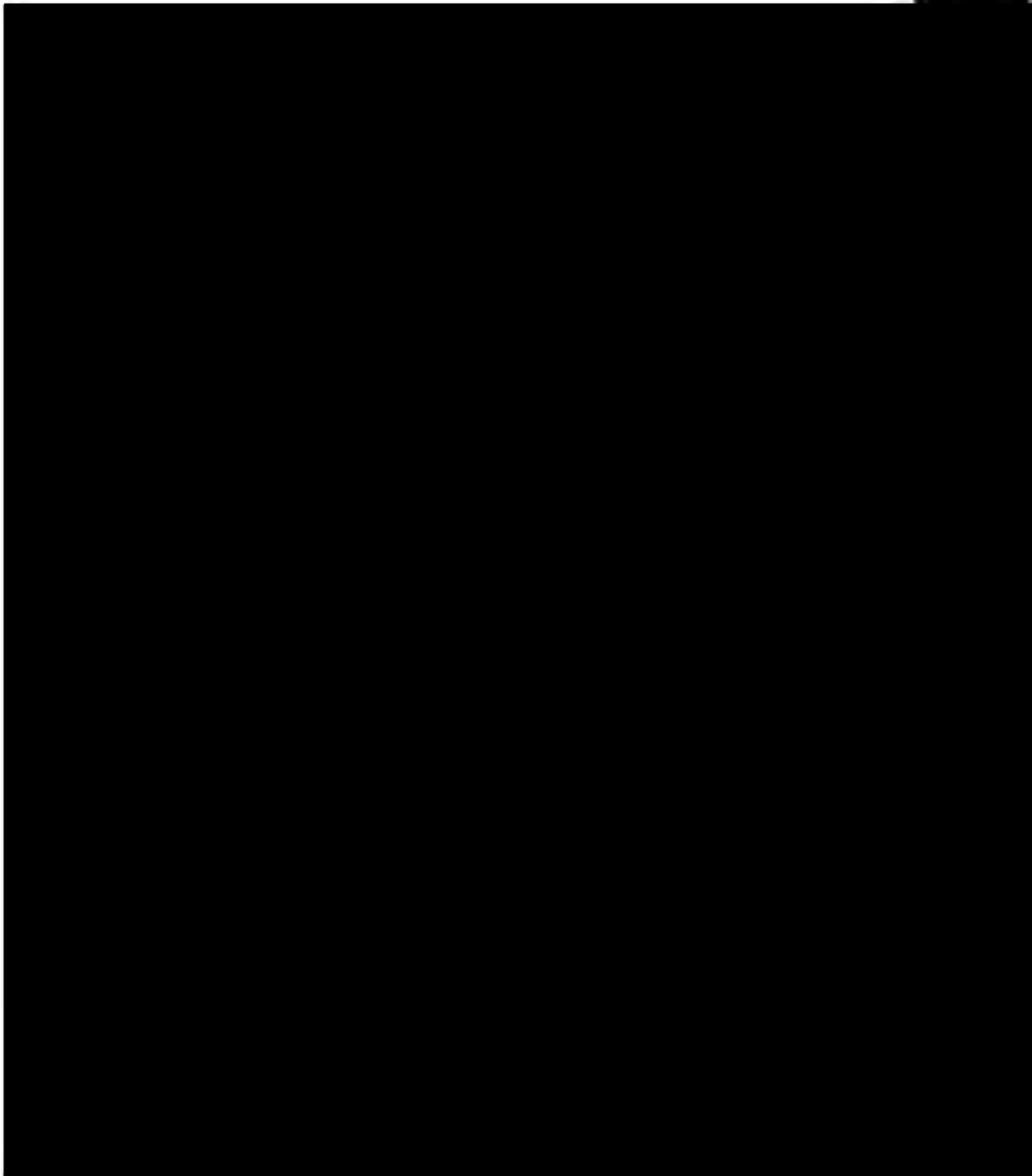


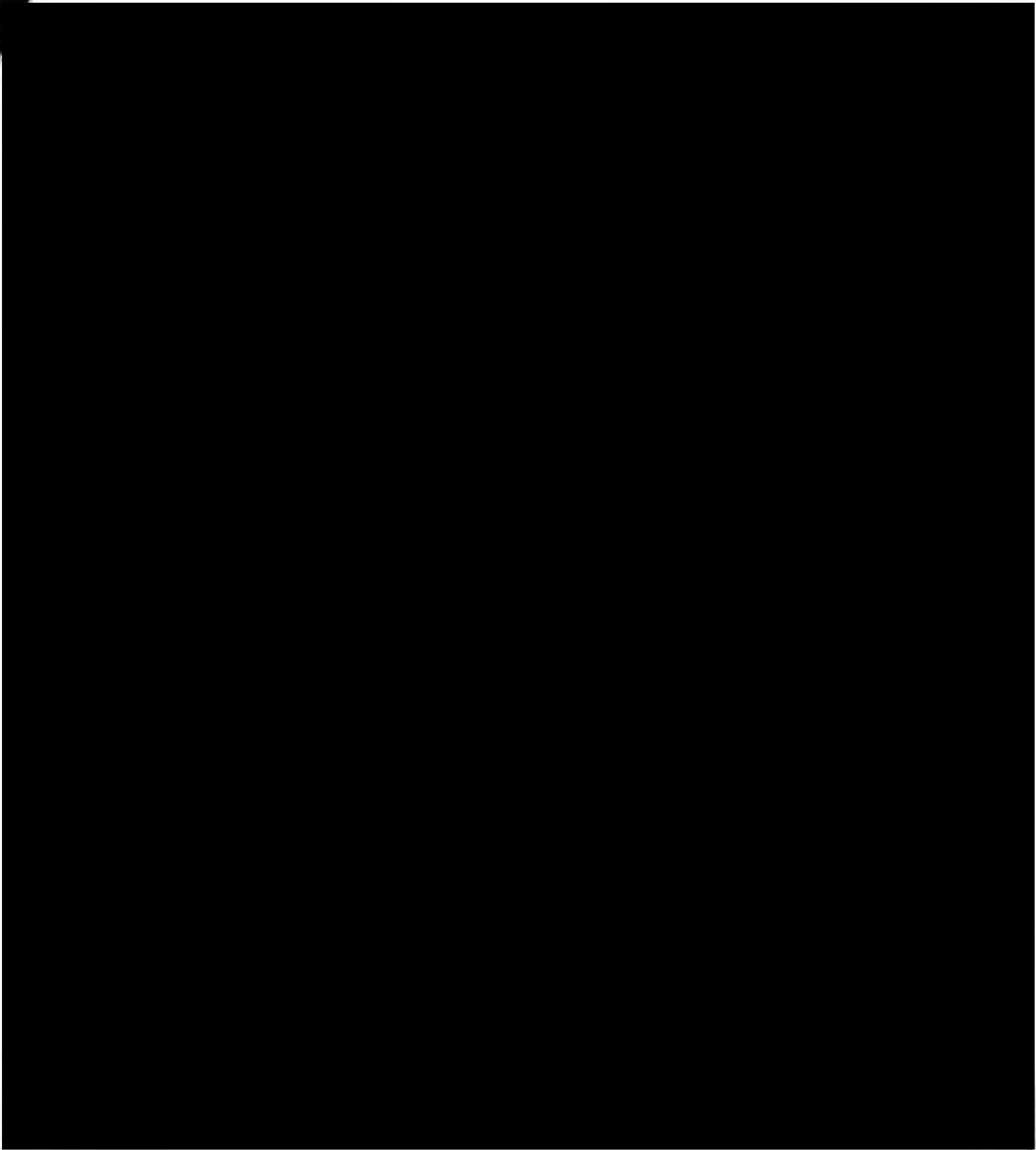


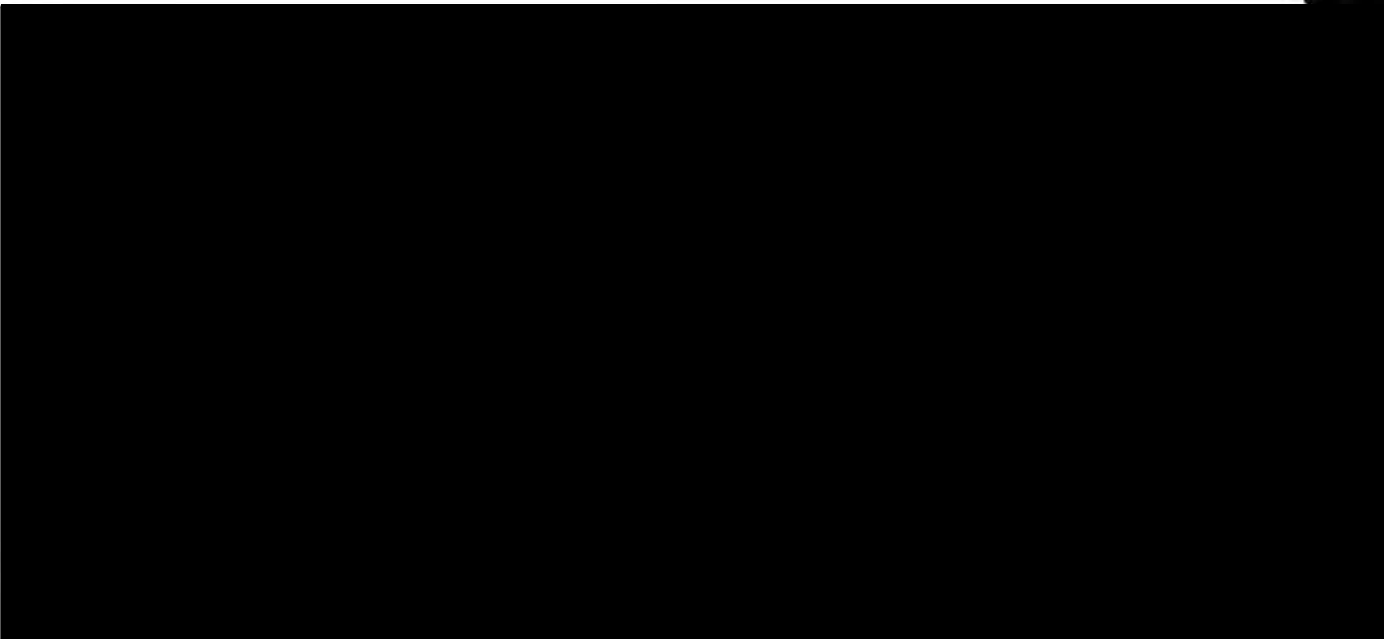






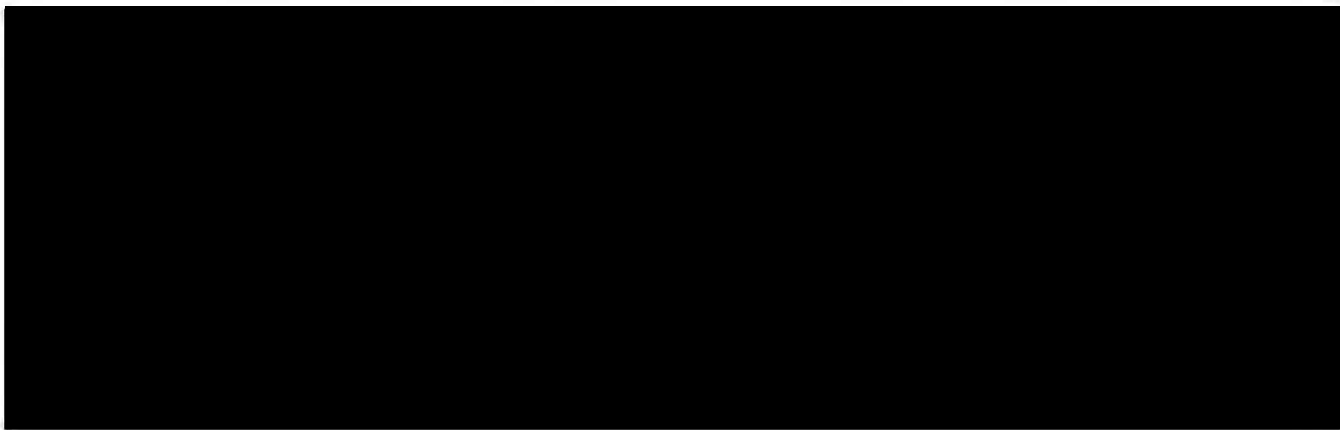






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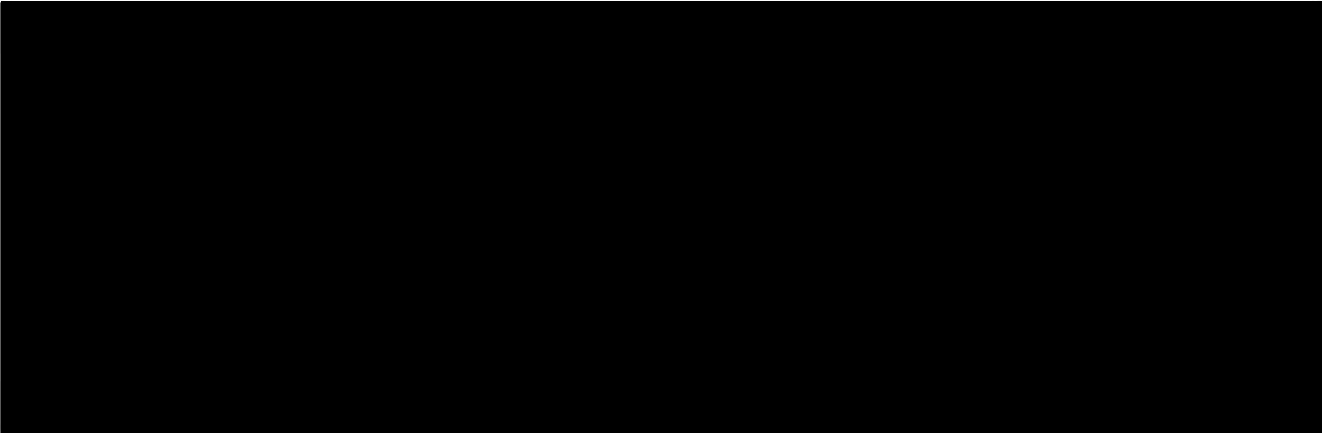
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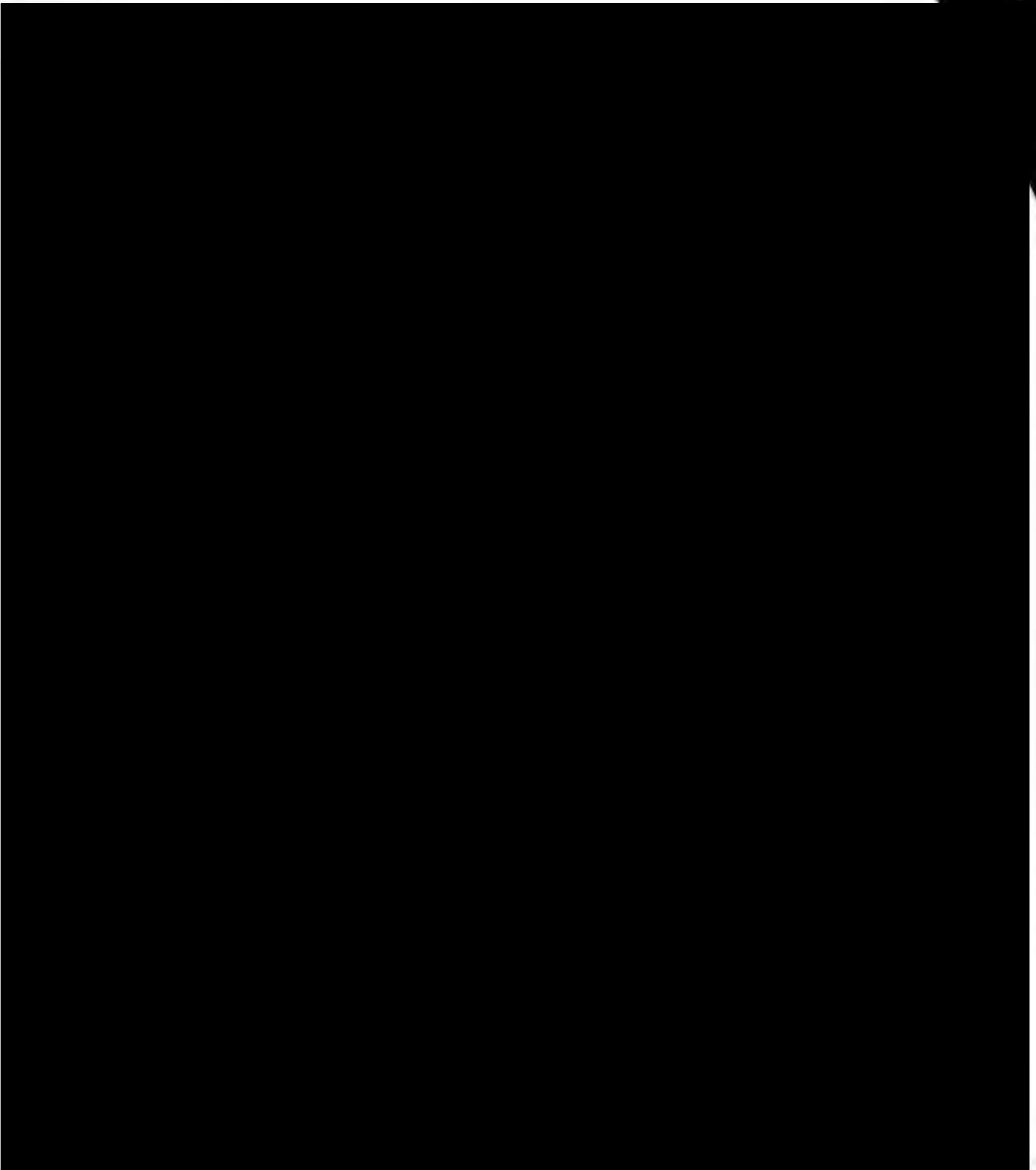
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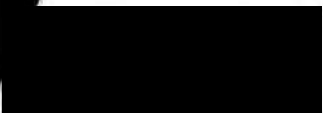
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